

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS POWER HOLDINGS, LLC and)	
AMERENENERGY MEDINA VALLEY)	
COGEN, LLC,)	
)	
Petitioners,)	
)	
AMEREN ENERGY RESOURCES, LLC,)	
)	PCB 14-10
Co-Petitioner,)	(Variance - Air)
)	
v.)	
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

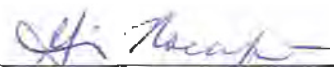
NOTICE

TO: John Therriault, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph St., Suite 11-500
Chicago, IL 60601

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S RESPONSES TO THE ILLINOIS POLLUTION CONTROL BOARD'S QUESTIONS, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Gina Roccaforte
Assistant Counsel
Division of Legal Counsel

DATED: September 5, 2013

1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217.782.5544
217.782.9143 (TDD)

**THIS FILING IS SUBMITTED
ON RECYCLED PAPER**

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY’S RESPONSES TO THE ILLINOIS POLLUTION CONTROL BOARD’S QUESTIONS

NOW COMES the Illinois Environmental Protection Agency (“Illinois EPA”), by its attorney, and pursuant to the Hearing Officer’s Order dated August 14, 2013, respectfully submits the Illinois EPA’s Responses to the Illinois Pollution Control Board’s (“Board”) questions provided in Attachment A of that Order. The Board’s questions for the Illinois EPA are in bold italics and the Illinois EPA’s responses immediately follow each question.

QUESTIONS FOR THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

New 2010 1-hour SO₂ NAAQS

3. ***In the Board’s September 20, 2012 order in Ameren Energy Resources v. IEPA, PCB 12-126, the Board stated that***

the Agency noted, “[t]he MPS was not designed to address the new 2010 1-hour SO₂ [NAAQS], which was not proposed at the time the MPS was being negotiated.” Agency Resp. at 22. The Board notes that the new 1-hour SO₂ NAAQS addresses short term exposure and sets into motion a requirement for the states to assess attainment. 77 Fed. Reg. 46295 (Aug. 3, 2012). Based on the record at this time, the Board does not have enough information to determine if AER’s variance will interfere with the State’s ability to attain or maintain the new 1-hour SO₂ NAAQS

or the proposed PM NAAQS because the MPS and current Illinois SIP do not yet address these standards. However, the Board finds that granting AER's petition for variance with the conditions in the order below would be within the State's current obligation under the Illinois SIP to attain and maintain compliance with the NAAQS. Ameren Energy Resources v. IEPA, PCB 12-126, slip op. at 56 (Sept. 20, 2012).

Since the petition was filed on July 22, 2013, USEPA Administrator, Gina McCarthy, signed notice of the Final Rule for the initial one-hour SO₂ air quality designations on July 25, 2013, and is submitting it for publication in the Federal Register. See <http://www.epa.gov/so2designations/regs.html>

The E.D. Edwards Station is located in one of the designated nonattainment areas for the new 1-hour SO₂ NAAQS. USEPA stated that SIPs "would need to provide for attainment and maintenance of the new 1-hour SO₂ NAAQS as expeditiously as practicable, which we expect to be no later than five years after initial designation . . . in all areas of the State . . ." 75 Fed. Reg. 35553 (June 22, 2010). Five years later would be July 25, 2018, approximately 17 months before the end of the requested variance.

- (a) *Please address whether the Agency believes granting the variance will jeopardize the State's current obligations under the Illinois SIP or to attain and maintain the NAAQS.*

This variance does not allow any increase in emissions above what is currently allowed. Therefore, there is no impact to the environment whether this variance is granted or denied. The Illinois EPA believes the granting of this variance will not jeopardize the State's obligations to attain and maintain the 1-hour SO₂ NAAQS. This variance deals only with the requirements in question at the current time. Any new rules mandating reductions in SO₂ will be addressed in a separate rulemaking proceeding before the Board. Variances for existing requirements do not affect any future rules.

- (b) *Please address whether the State's current obligations to attain and maintain the NAAQS will be satisfied by the net environmental benefit claimed by petitioners over the term of the variance.*

This variance neither increases nor decreases the amount of emissions allowed. Therefore, there will be no impact to the State's ability to meet its obligations from this variance. Furthermore, the Illinois EPA does not need to rely on the net environmental benefit for the meeting of its obligations. Instead, the Illinois EPA will propose new rules to the Board and such rules will require sufficient reductions to allow the attainment and maintenance of the NAAQS.

- (c) *Please comment preliminarily on how, if the Agency proposes and the Board adopts new rules to address SIP obligations for the new 1-hour SO₂ NAAQS, that action would affect (1) the requested variance, (2) the facilities covered by the requested variance, and (3) the E.D. Edwards station in particular.*

There would be no impact to any requirements of the variance from any new rule. Any affected emission source covered by any new rule proposed by the Illinois EPA and adopted by the Board would need to comply with both the new rule and the variance. The E.D. Edwards station would likewise need to comply with both the new rule and the variance.

4. Please submit the following documents for inclusion in the record for this variance request:

- (a) *The signed notice submitted for publication in the Federal Register. See <http://www.epa.gov/so2designations/pdfs/20130725fr.pdf>*
- (b) *The USEPA report entitled "Responses to Significant Comments on the State and Tribal Designation Recommendations for the 2010 Sulfur Dioxide National Ambient Air Quality Standards (NAAQS)", USEPA, July 2013. See <http://www.epa.gov/so2designations/pdfs/20130725rtc.pdf>*
- (c) *"Technical Support Document (TSD), Illinois Area Designations for the 2010 SO₂ Primary National Ambient Air Quality Standard", USEPA. See http://www.epa.gov/so2designations/tsd/05_IL_tsd.pdf*

The Illinois EPA is submitting the requested documents as Exhibits 1, 2, and 3, respectively, and is also submitting for inclusion in the record the Final Rule, Air Quality Designations for the 2010 Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard, 78 Fed. Reg. 47191 (August 5, 2013), as Exhibit 4. The Illinois EPA also points out that the effective date of the Final Rule is October 4, 2013.

SIP Revision

- 5. In PCB 12-126, the Agency stated that after preliminary discussions with USEPA Region 5 regarding pending variance request, no adverse issues were identified. Ameren Energy Resources, PCB 12-126, slip op. at 55 (Sept. 20, 2012). Has the Agency discussed the instant variance request with USEPA? If so, please elaborate on USEPA's response.**

The Illinois EPA has not specifically discussed the instant variance request with USEPA. However, previous discussions with USEPA have indicated that it has no adverse issues with the prior variance (PCB 12-126). Additionally, on May 16, 2013, the Illinois EPA submitted the prior variance to USEPA as a SIP revision and USEPA has still not indicated that there are any adverse issues.

Since the allowable emissions are not changing from the prior variance to this requested variance, there is no reason to believe USEPA would find any adverse issues.

QUESTION FOR PETITIONERS AND THE AGENCY

Effect on PCB 12-126 Variance

6. ***Please address the ongoing legal effect, if any, of the variance granted in Ameren Energy Resources, PCB 12-126 (Sept. 20, 2012), if the requested variance in the instant case is granted and the transaction by which IPH would acquire AER's active coal-fired power plants goes forward.***

The variance granted to AER in PCB 12-126 is legally in effect as specified by the Board in that case. If the Board grants the variance in the instant case, and if the transaction involving IPH and the relevant parties is successfully concluded such that ownership of the affected coal-fired power plants is transferred, then it appears that the new variance would effectively supersede the PCB 12-126 variance. Therefore, as a practical matter, the regulatory relief and conditions granted by the Board for the seven coal-fired power plants that were the subject of PCB 12-126 will remain in effect and unchanged, and legally, IPH and Medina Valley will hold ownership of the affected plants.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Gina Roccaforte
Assistant Counsel
Division of Legal Counsel

DATED: September 5, 2013

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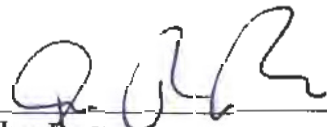
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PCB 14-10
(Variance - Air)

AFFIDAVIT

I, Jim Ross, under oath, hereby state that I am the Manager of the Division of Air Pollution Control in the Bureau of Air of the Illinois Environmental Protection Agency. I assisted in preparing and have reviewed the Illinois Environmental Protection Agency's Responses to the Illinois Pollution Control Board's Questions and the facts stated therein are true and correct to the best of my knowledge and belief.



 Jim Ross
 Manager
 Division of Air Pollution Control
 Bureau of Air
 Illinois Environmental Protection Agency

SUBSCRIBED AND SWORN TO BEFORE ME

This 4th day of September, 2013



 Notary Public



The EPA Administrator, Gina McCarthy, signed the following notice on 7/25/2013, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version of the rule for purposes of compliance. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's FDSys website (<http://fdsys.gpo.gov/fdsys/search/home.action>) and on Regulations.gov (<http://www.regulations.gov>) in Docket No. EPA-HQ-OAR-2012-0233. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-HQ-OAR-2012-0233; FRL-####-#]

RIN 2060-AR18

Air Quality Designations for the 2010 Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rule establishes air quality designations for certain areas in the United States for the 2010 primary Sulfur Dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). The EPA is issuing this rule to identify areas that, based on recorded air quality monitoring data showing violations of the NAAQS, do not meet the 2010 SO₂ NAAQS and areas that contribute to SO₂ air pollution in a nearby area that does not meet the SO₂ NAAQS. At this time, the EPA is designating as nonattainment most areas in locations where existing monitoring data from 2009-2011 indicate violations of the 1-hour SO₂ standard. The EPA intends to address in separate future actions the designations for all other areas for which the agency is not yet prepared to issue designations and that are consequently not addressed in this final rule. The Clean Air Act (CAA) directs areas designated nonattainment by this rule to

undertake certain planning and pollution control activities to attain the NAAQS as expeditiously as practicable.

EFFECTIVE DATE: The effective date of this rule is **[INSERT DATE 60 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID NO. EPA-HQ-OAR-2012-0233. All documents in the docket are listed in the *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 *www.regulations.gov* or in hard copy at the EPA Docket Center, EPA West, 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 this rulemaking at: <http://www.epa.gov/so2designations>. The website includes the EPA's final SO₂ 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 Rhonda Wright, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Planning Division, C539-04, Research Triangle Park, NC 27711, telephone (919) 541-1087, email at wright.rhonda@epa.gov.

SUPPLEMENTARY INFORMATION:

REGIONAL OFFICE CONTACTS:

- Region I-Donald Dahl (617) 918-1657,
- Region II-Kenneth Fradkin (212) 637-3702,
- Region III-Ruth Knapp (215) 814-2191,
- Region IV-Lynorae Benjamin (404) 562-9040,
- Region V-John Summerhays (312) 886-6067,
- Region VI-Dayana Medina (214) 665-7241,
- Region VII-Larry Gonzalez (913) 551-7041,
- Region VIII-Crystal Ostigaard (303) 312-6602,
- Region IX-John Kelly (415) 947-4151, and
- Region X-Steve Body (206) 553-0782.

The public may inspect the rule and state-specific technical support information at the following locations:

Regional Offices	States
Dave Conroy, Chief, Air Programs Branch, EPA New England, 1 Congress Street, Suite 1100, Boston, MA 02114-2023, (617) 918-1661.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.
Richard Ruvo, Chief, Air Planning Section,	New Jersey, New York, Puerto Rico and

EPA Region II, 290 Broadway, 25 th Floor, New York, NY 10007-1866, (212) 637-4014.	Virgin Islands.
Cristina Fernandez, Associate Director, Office of Air Program Planning, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2187, (215) 814-2178.	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia.
R. Scott Davis, Chief, Air Planning Branch, EPA Region IV, Sam Nunn Atlanta Federal Center, 61 Forsyth, Street, SW, 12 th Floor, Atlanta, GA 30303, (404) 562-9127.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee.
John Mooney, Chief, Air Programs Branch, EPA Region V, 77 West Jackson Street, Chicago, IL 60604, (312) 886-6043.	Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin.
Guy Donaldson, Chief, Air Planning Section, EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202, (214) 665-7242.	Arkansas, Louisiana, New Mexico, Oklahoma and Texas.
Joshua A. Tapp, Chief, Air Programs Branch, EPA Region VII, 11201 Renner Blvd., Lenexa, KS 66129, (913) 551-7606.	Iowa, Kansas, Missouri and Nebraska.
Gail Fallon, Acting Unit Chief, Air Quality Planning Unit, EPA Region VIII, 1595 Wynkoop Street, Denver, CO 80202-1129, (303) 312-6281.	Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming.
Doris Lo, Air Planning Office, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972-3959.	American Samoa, Arizona, California, Guam, Hawaii, Nevada and Northern Mariana Islands.
Debra Suzuki, Manager, State and Tribal Air Programs, EPA Region X, Office of Air, Waste, and Toxics, Mail Code OAQ-107, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553-0985.	Alaska, Idaho, Oregon and Washington.

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I. Preamble Glossary of Terms and Acronyms

The following are abbreviations of terms used in the preamble.

APA	Administrative Procedure Act
CAA	Clean Air Act
CFR	Code of Federal Regulations
D.C.	District of Columbia
EO	Executive Order
EPA	Environmental Protection Agency
FR	Federal Register
NAAQS	National Ambient Air Quality Standards

NTTAA	National Technology Transfer and Advancement Act
OMB	Office of Management and Budget
SO ₂	Sulfur Dioxide
SO _x	Sulfur Oxides
RFA	Regulatory Flexibility Act
SIP	State Implementation Plan
UMRA	Unfunded Mandate Reform Act of 1995
TAR	Tribal Authority Rule
TSD	Technical Support Document
U.S.	United States
VCS	Voluntary Consensus Standards

II. What is the purpose of this document?

The purpose of this action is to announce and promulgate designations and boundaries for certain areas of the country not meeting the 2010 SO₂ NAAQS based on available information, in accordance with the requirements of the CAA. The initial list of areas being designated nonattainment in each state and the boundaries of each area appear in the tables within the regulatory text.

This notice identifies the 29 initial areas being designated as nonattainment areas for the 2010 SO₂ NAAQS. The basis for designating each area as “nonattainment” is monitored air quality data from calendar years 2009-2011 indicating a violation of the NAAQS in the area. For these areas being designated nonattainment, the CAA directs states to develop State Implementation Plans (SIPs) that meet the requirements of sections 172(c) and 191-192 of the CAA and provide for attainment of the NAAQS as expeditiously as practicable, but no later than **[INSERT DATE 5 YEARS FROM THE EFFECTIVE DATE OF THIS FEDERAL REGISTER]**. The CAA directs states to submit these SIPs to the EPA

within 18 months of the effective date of these designations, i.e., by **[INSERT DATE 18 MONTHS FROM THE EFFECTIVE DATE OF THIS FINAL RULE]**.

III. What is Sulfur Dioxide?

SO₂ is one of a group of highly reactive gasses known as “oxides of sulfur” (SO_x). The largest sources of SO₂ emissions are from fossil fuel combustion at power plants (73 percent) and other industrial facilities (20 percent). Smaller sources of SO₂ emissions include industrial processes, such as extracting metal from ore, and the burning of high sulfur containing fuels by locomotives, large ships and non-road equipment. SO₂ is linked with a number of adverse effects on the respiratory system.

IV. What is the 2010 SO₂ NAAQS and what are the health concerns that it addresses?

The Administrator signed a final rule revising the primary SO₂ NAAQS on June 2, 2010. The rule was published in the *Federal Register* on June 22, 2010 (75 FR 35520), and became effective on August 23, 2010. Based on the Administrator’s review of the air quality criteria for oxides of sulfur and the primary NAAQS for oxides of sulfur as measured by SO₂, the EPA revised the primary SO₂ NAAQS to provide requisite protection of public health with an adequate margin of safety. Specifically, the EPA established a new 1-hour SO₂ standard at a level of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations is less than or equal to 75 ppb, as determined in accordance with Appendix T of 40 CFR part 50. 40 CFR 50.17(a)-(b). The EPA also established provisions to revoke both the

existing 24-hour and annual primary SO₂ standards, subject to certain conditions. 40 CFR 50.4(e).

Current scientific evidence links short-term exposures to SO₂, ranging from 5 minutes to 24 hours, with an array of adverse respiratory effects including bronchoconstriction and increased asthma symptoms. These effects are particularly important for asthmatics at elevated ventilation rates (e.g., while exercising or playing). Studies also show a connection between short-term exposure and increased visits to emergency departments and hospital admissions for respiratory illnesses, particularly in at-risk populations including children, the elderly and asthmatics.

The EPA's NAAQS for SO₂ is designed to protect against exposure to the entire group of SO_x. SO₂ is the component of greatest concern and is used as the indicator for the larger group of gaseous SO_x. Other gaseous SO_x (e.g., SO₃) are found in the atmosphere at concentrations much lower than SO₂.

Emissions that lead to high concentrations of SO₂ generally also lead to the formation of other SO_x. Control measures that reduce SO₂ can generally be expected to reduce people's exposures to all gaseous SO_x. This may also have the important co-benefit of reducing the formation of fine sulfate particles, which pose significant public health threats. SO_x can react with other compounds in the atmosphere to form small particles. These particles penetrate deeply into sensitive parts of the lungs and can cause or worsen respiratory disease, such as emphysema and bronchitis, and can aggravate existing heart disease, leading to increased hospital admissions and

premature death.¹ The EPA's NAAQS for particulate matter are designed to provide protection against these health effects.

V. What are the CAA requirements for air quality designations and what action has the EPA taken to meet these requirements?

After the promulgation of a new or revised NAAQS, the EPA is required to designate areas as "nonattainment," "attainment," or "unclassifiable," pursuant to section 107(d)(1) of the CAA.

The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d) of the CAA. The CAA requires the EPA to complete the initial designations process within 2 years of promulgating a new or revised standard. If the Administrator has insufficient information to make these designations by that deadline, the EPA has the authority to extend the deadline for completing designations by up to 1 year. On July 27, 2012, the EPA announced that it had insufficient information to complete the designations for the 1-hour SO₂ standard within 2 years and extended the designations deadline to June 3, 2013.

At this time, the EPA is initially designating as nonattainment most areas in locations where existing monitoring data from 2009-2011 indicate violations of the 1-hour SO₂ standard. In some cases, we have had to use data from a different three-year period or are still evaluating whether data from 2009-2011 are influenced by exceptional events. In separate future actions, the EPA intends to address the

¹ See Fact Sheet Revisions to the Primary National Ambient Air Quality Standard, Monitoring Network, and Data Reporting Requirements for Sulfur Dioxide at <http://www.epa.gov/airquality/sulfurdioxide/pdfs/20100602fs.pdf>.

designations for all other areas for which the agency is not yet prepared to issue designations and that are consequently not addressed in this final rule. With input from a diverse group of stakeholders, the EPA has developed a comprehensive implementation strategy for the future SO₂ designations actions that focuses resources on identifying and addressing unhealthy levels of SO₂ in areas where people are most likely to be exposed to violations of the standard. For informational purposes, the strategy is available at: <http://www.epa.gov/airquality/sulfurdioxide/implement.html>. The EPA plans to continue to work closely with state, tribal and local air quality management agencies to ensure health-protective, commonsense implementation of the 1-hour SO₂ NAAQS.

By not later than 1 year after the promulgation of a new or revised NAAQS, CAA section 107(d)(1)(A) provides that each state governor is required to recommend air quality designations, including the appropriate boundaries for areas, to the EPA. The EPA reviews those state recommendations and is authorized to make any modifications the Administrator deems necessary. The statute does not define the term “necessary,” but the EPA interprets this to authorize the Administrator to modify designations that did not meet the statutory requirements or were otherwise inconsistent with the facts or analysis deemed appropriate by the EPA. If the EPA is considering modifications to a state’s initial recommendation, the EPA is required to notify the state of any such intended modifications to its recommendation not less than 120 days prior to the EPA’s promulgation of the final designation. During this period of no less than 120 days, if the state does not agree with the EPA’s

modification, it has an opportunity to respond to the EPA and to demonstrate why it believes the modification proposed by the EPA is inappropriate, as contemplated by section 107(d)(1)(B)(ii). Even if a state fails to provide any recommendation for an area, in whole or in part, the EPA still must promulgate a designation that the Administrator deems appropriate, pursuant to section 107(d)(1)(B)(ii).

Section 107(d)(1)(A)(i) of the CAA defines a nonattainment area as any area that does not meet an ambient air quality standard or that is contributing to ambient air quality in a nearby area that does not meet the standard. If an area meets either prong of this definition, then the EPA is obligated to designate the area as “nonattainment.”

The EPA believes that section 107(d) provides the agency with discretion to determine how best to interpret the terms in the definition of a nonattainment area (e.g., “contributes to” and “nearby”) for a new or revised NAAQS, given considerations such as the nature of a specific pollutant, the types of sources that may contribute to violations, the form of the standards for the pollutant, and other relevant information. In particular, the EPA believes that the statute does not require the agency to establish bright line tests or thresholds for what constitutes “contribution” or “nearby” for purposes of designations.²

Similarly, the EPA believes that the statute permits the EPA to evaluate the appropriate application of the term “area” to include geographic areas based upon full or partial county boundaries, and contiguous or non-contiguous areas, as may be

² This view was confirmed in *Catawba County v. EPA*, 571 F.3d 20 (D.C. Cir. 2009).

appropriate for a particular NAAQS. For example, section 107(d)(1)(B)(ii) explicitly provides that the EPA can make modifications to designation recommendations for an area “or portions thereof,” and under section 107(d)(1)(B)(iv) a designation remains in effect for an area “or portion thereof” until the EPA redesignates it.

Designation activities for federally-recognized tribal governments are covered under the authority of section 301(d) of the CAA. This provision of the CAA authorizes the EPA to treat eligible tribes in a similar manner as states. Pursuant to section 301(d)(2), the EPA promulgated regulations, known as the Tribal Authority Rule (TAR), on February 12, 1999. 63 FR 7254, codified at 40 CFR part 49. That rule specifies those provisions of the CAA for which it is appropriate to treat tribes in a similar manner as states. Under the TAR, tribes may choose to develop and implement their own CAA programs, but are not required to do so. The TAR also establishes procedures and criteria by which tribes may request from the EPA a determination of eligibility for such treatment. The designations process contained in section 107(d) of the CAA is included among those provisions determined to be appropriate by the EPA for treatment of tribes in the same manner as states. Under the TAR, tribes generally are not subject to the same submission schedules imposed by the CAA on states. As authorized by the TAR, tribes may seek eligibility to submit designation recommendations to the EPA. In addition, CAA section 301(d)(4) gives the EPA discretionary authority, in cases where it determines that treatment of tribes as identical to states is “inappropriate or administratively infeasible,” to provide for direct administration by regulation to achieve the appropriate purpose.

To date, six tribes have applied under the TAR for eligibility to submit its own recommendations under section 107(d). Nonetheless, the EPA invited all tribes to submit recommendations concerning designations for the 2010 SO₂ NAAQS. The EPA worked with the tribes that requested an opportunity to submit designation recommendations. Tribes were provided an opportunity to submit their own recommendations and supporting documentation and could also comment on state recommendations and the EPA modifications.

Designation recommendations and supporting documentation were submitted by most states and several tribes to the EPA by June 3, 2011. After receiving these recommendations, and after reviewing and evaluating each recommendation, the EPA provided a response to the states and tribes on February 7, 2013.³ In these letter responses, we indicated whether the EPA intended to make modifications to the initial state or tribal recommendations and explained the EPA's reasons for making any such modifications. For the majority of the areas, the EPA agreed with the state's recommended boundary. The EPA requested that states and tribes respond to any proposed EPA modifications by April 8, 2013. The EPA received comments from some states suggesting changes to the EPA's proposed modifications and providing additional information. The EPA evaluated these comments, and all of the timely supporting technical information provided. As a result, and based on that input and analysis, some of the final designations reflect further modifications to the initial state

³ As indicated in the February 2013 letters, the EPA is not yet prepared to designate any areas in Indian country. The EPA intends to address the designations for these areas in separate future actions.

recommendations. The state and tribal letters, including the initial recommendations, the EPA's February 2013 responses to those letters, any modifications, and the subsequent state comment letters, are in the docket for this action.

Although not required by section 107(d) of the CAA, the EPA also provided an opportunity for members of the public to comment on the EPA's February 2013 response letters. In order to gather additional information for the EPA to consider before making final designations, the EPA published a notice on February 15, 2013 (78 FR 1124) which invited the public to comment on the EPA's intended designations. In the notice, the EPA stated that public comments must be received on or before March 18, 2013. The EPA received several requests from stakeholders for additional time to prepare their comments. Some of the requesters noted that the original 30-day comment period was insufficient time to review the EPA's responses to states' and tribes' recommended designations and to compile meaningful responses due to the complexity of the issues impacting certain areas. Taking that into consideration, the EPA extended the public comment period to April 8, 2013. State and tribal initial recommendations and the EPA's responses, including modifications, were posted on a publically accessible website (<http://www.epa.gov/so2designations>). Timely comments from the public and the EPA's responses to significant comments are in the docket for this action.

VI. What guidance did the EPA issue and how did the EPA apply the statutory requirements and applicable guidance to determine area designations and boundaries?

In the notice of proposed rulemaking for the revised SO₂ NAAQS (74 FR 64810; December 8, 2009), the EPA issued proposed guidance on its approach to implementing the standard, including its approach to initial area designations. The EPA solicited comment on that guidance and, in the notice of final rulemaking (75 FR 35520; June 22, 2010), provided further guidance concerning implementation of the standard and how to identify nonattainment areas and boundaries for the SO₂ NAAQS. Subsequently, on March 24, 2011, the EPA provided additional designations guidance to assist states with making their recommendations for area designations and boundaries.⁴ In that guidance, the EPA recommended that monitoring data from the most recent three consecutive years be used to identify a violation of the SO₂ NAAQS. This is appropriate because the form of the SO₂ NAAQS is calculated as a 3-year average of the 99th percentile of the yearly distribution of 1-hour daily maximum SO₂ concentrations (specifically the most recent 3 consecutive years).⁵ The EPA is basing these initial final designations on monitored SO₂ concentrations from Federal Reference Method and Federal Equivalent Method monitors that are sited and operated in accordance with 40 CFR Parts 50 and 58. The EPA notes that data from 2008-2010 were the most recent data available to states and tribes when they made their recommendations to the EPA in June 2011. Accordingly, although the determination of whether an area violates the

⁴ See, "Area Designations for the 2010 Revised Primary Sulfur Dioxide National Ambient Air Quality Standards," memorandum to Regional Air Division Directors, Regions I-X, from Stephen D. Page, dated March 24, 2011.

⁵ This notice refers to monitoring data for "calendar years 2009-2011" which includes data from January 2009 through December 2011.

standard was based on 2009-2011 data, the EPA considered state recommendations and data from 2008-2010, as appropriate, in determining boundaries for nonattainment areas.

In the guidance, the EPA stated that the perimeter of a county containing a violating monitor would be the initial presumptive boundary for nonattainment areas, but also stated that the state, tribe and/or the EPA could conduct additional area-specific analyses that could justify establishing either a larger or smaller area. The EPA indicated that the following factors should be considered in an analysis of whether to exclude portions of a county and whether to include additional nearby areas outside the county as part of the designated nonattainment area: 1) air quality data; 2) emissions-related data; 3) meteorology; 4) geography/topography; and 5) jurisdictional boundaries, as well as other available data. States and tribes may identify and evaluate other relevant factors or circumstances specific to a particular area.

Most states and several tribes submitted their designations recommendations in June 2011. In each case, the EPA reviewed the state recommendations and, where appropriate, the EPA accepted the state's recommendations. However, where the EPA determined that changes were necessary to a state's initial recommendation, we conveyed those preliminary determinations to the state in February 2013, and have worked with states to further review appropriate boundaries.

VII. What air quality data has the EPA used?

The final SO₂ designations contained in this action are based upon violations of the NAAQS determined by air quality monitoring data from calendar years 2009-2011, except where it was necessary or appropriate to use a different three-year period. The form of the standard requires a calculation of monitoring values from 3 consecutive years. The 1-hour primary standard is violated at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentrations exceeds 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. For comparison to the level of the standard, ambient air quality shall be measured by a reference method based on appendix A or A-1, or by a Federal Equivalent Method designated in accordance with 40 CFR part 53.

VIII. How do designations affect Indian Country?

All counties, partial counties or Air Quality Control Regions listed in the tables within the regulatory text are designated as indicated. For the first round of SO₂ designations, the EPA is only designating certain nonattainment areas shown to be violating the NAAQS based on monitored data. There are no areas in Indian Country being designated nonattainment at this time. All remaining areas, including areas of Indian Country, for which the EPA is not yet prepared to issue final designations will be addressed in a subsequent round of designations.

IX. Where can I find information forming the basis for this rule and exchanges between the EPA, states and tribes related to this rule?

Information providing the basis for this action are provided in several technical support documents (TSDs), a response to comments document (RTC) and other information in the docket. The TSDs, RTC, applicable EPA's guidance memoranda, copies of correspondence regarding this process between the EPA and the states, tribes and other parties, are available for review at the EPA Docket Center listed above in the ADDRESSES section of this document and on the agency's SO₂ Designations website at <http://www.epa.gov/so2designations>. Area-specific questions can be addressed to the EPA Regional Offices.

X. Statutory and Executive Order Reviews

Upon promulgation of a new or revised NAAQS, the CAA requires the EPA to designate areas as attaining or not attaining the NAAQS. The CAA then specifies requirements for areas based on whether such areas are attaining or not attaining the NAAQS. In this final rule, the EPA assigns designations to selected areas as required.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action responds to the CAA requirement to promulgate air quality designations after promulgation of a new or revised NAAQS. This type of action is exempt from review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (67 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* Burden is defined

at 5 CFR 1320.3(b). This action responds to the requirement to promulgate air quality designations after promulgation of a new or revised NAAQS. This requirement is prescribed in the CAA section 107 of title 1. This action does not establish any new information collection apart from that already required by law.

C. Regulatory Flexibility Act

This final rule is not subject to the Regulatory Flexibility Act (RFA), which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. This action is not subject to notice-and-comment requirements under the APA or any other statute because the action is not subject to the APA. CAA section 107(d)(2)(B) does not require the EPA to issue a notice of proposed rulemaking before issuing this final action.

D. Unfunded Mandates Reform Act

This action contains no federal mandate under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531-1538 for state, local or tribal governments or the private sector. The action imposes no enforceable duty on any state, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely

affect small governments. It does not create any additional requirements beyond those of the CAA and SO₂ NAAQS (40 CFR 50.17); therefore, no UMRA analysis is needed. This action establishes nonattainment designations for certain areas of the country for the 2010 SO₂ NAAQS. The CAA requires states to develop plans, including control measures, based on the designations for areas within the state.

The EPA believes that any new controls imposed as a result of this action will not cost in the aggregate \$100 million or more annually. Thus, this federal action will not impose mandates that will require expenditures of \$100 million or more in the aggregate in any 1 year.

E. Executive Order 13132: Federalism

This final action does not have federalism implications. It will 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. The CAA establishes the process whereby states take primary responsibility in developing plans to meet the SO₂ NAAQS in areas designated nonattainment by this action. This action will not modify the relationship of the states and the EPA for purposes of developing programs to attain and maintain the SO₂ NAAQS. Thus, Executive Order 13132 does not apply to this action.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action concerns the designation of certain areas as nonattainment for the 2010 SO₂ NAAQS, but no areas of Indian Country are being designated by this action. Because this action does not have tribal implications, Executive Order 13175 does not apply.

Although Executive Order 13175 does not apply to this rule, the EPA communicated with tribal leaders and environmental staff regarding the designations process. The EPA also sent individualized letters to all federally recognized tribes to explain the designation process for the 2010 SO₂ NAAQS, to provide the EPA designations guidance, and to offer consultation with the EPA. The EPA provided further information to tribes through presentations at the National Tribal Forum and through participation in National Tribal Air Association conference calls. The EPA also sent individualized letters to all federally recognized tribes that submitted recommendations to the EPA about the EPA's intended designations for the SO₂ standards and offered tribal leaders the opportunity for consultation. These communications provided opportunities for tribes to voice concerns to the EPA about the general designations process for the 2010 SO₂ NAAQS, as well as concerns specific to a tribe, and informed the EPA about key tribal concerns regarding designations as the rule was under development.

G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks

The action is not subject to Executive Order 13045 (62 FR 19885,

April 23, 1997) because it is not an economically significant regulatory action as defined in Executive Order 12866. While not subject to the Executive Order, this final action may be especially important for asthmatics, including asthmatic children, living in SO₂ nonattainment areas because respiratory effects in asthmatics are among the most sensitive health endpoints for SO₂ exposure. Because asthmatic children are considered a sensitive population, the EPA evaluated the potential health effects of exposure to SO₂ pollution among asthmatic children as part of the EPA's prior action establishing the 2010 SO₂ NAAQS. These effects and the size of the population affected are summarized in the EPA's final SO₂ NAAQS rules. *See*

<http://www.epa.gov/ttn/naaqs/standards/so2/fr/20100622.pdf>.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA of 1995, Public Law No. 104-113, section 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. The NTTAA directs the EPA to provide Congress, through

OMB, explanations when the agency decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, the EPA did not consider the use of any VCS.

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

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the U.S.

The CAA requires that the EPA 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 national primary or secondary ambient air quality standard for the pollutant." By designating as nonattainment areas where available information indicate a violation of the 2010 SO₂ NAAQS or a contribution to a nearby violation, this action protects all those residing, working, attending school, or otherwise present in those areas regardless of minority or economic status.

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected

populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population.

K. Congressional Review Act

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 U.S. The 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 U.S. 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). This rule will be effective **[INSERT DATE 60 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]**.

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 designating areas for the 2010 SO₂ NAAQS is “nationally applicable” within the meaning of section 307(b)(1). This final action establishes designations for areas across the U.S. for the 2010 SO₂ NAAQS. At the core of this final action is the EPA’s interpretation of the definition of nonattainment under section 107(d)(1) of the CAA, and its application of that interpretation to areas across the country. For the same reasons, the Administrator also is 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 apply to 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*.

**Page 25 of 51 – Air Quality Designations for the 2010 Sulfur Dioxide (SO₂)
Primary National Ambient Air Quality Standards**

LIST OF SUBJECTS IN 40 CFR PART 81

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

Dated:

Gina McCarthy,
EPA Administrator.

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

PART 81 - DESIGNATIONS 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 81.301 is amended by revising the table heading for “Alabama--Sulfur Dioxide” to read “Alabama--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

3. Section 81.302 is amended by revising the table heading for “Alaska--Sulfur Dioxide” to read “Alaska--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

4. Section 81.303 is amended as follows:

a. By revising the table heading for “Arizona--SO₂” to read “Arizona--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and

b. By adding a new table entitled “Arizona--2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Arizona--1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§81.303 Arizona.

* * * * *

Arizona--2010 Sulfur Dioxide NAAQS (Primary)

Designated Area	Designation	
	Date	Type
Hayden, AZ ¹	[INSERT]	Nonattainment

	DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	
Gila County (part)		
The portions of Gila County that are bounded by: T4S, R14E; T4S, R15E; T4S, R16E; T5S, R15E; T5S, R16E.		
Pinal County (part)		
The portions of Pinal County that are bounded by: T4S, R14E; T4S, R15E; T4S, R16E; T5S, R14E; T5S, R15E; T5S, R16E; T6S, R14E; T6S, R15E; T6S, R16E.		
Miami, AZ ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Gila County (part)		
The portions of Gila County that are bounded by: T2N, R14E; T2N, R15E; T1N, R13E; T1N, R14E; T1N, R15E; T1S, R14E; T1S, R14 1/2E; T1S, R15E.		

¹Excludes Indian country located in each area, if any, unless otherwise specified.

5. Section 81.304 is amended by revising the table heading for “Arkansas--Sulfur Dioxide” to read “Arkansas--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

6. Section 81.305 is amended by revising the table heading for “California--Sulfur Dioxide” to read “California--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.
7. Section 81.306 is amended by revising the table heading for “Colorado--Sulfur Dioxide” to read “Colorado--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.
8. Section 81.307 is amended by revising the table heading for “Connecticut--Sulfur Dioxide” to read “Connecticut--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.
9. Section 81.308 is amended by revising the table heading for “Delaware--Sulfur Dioxide” to read “Delaware--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.
10. Section 81.309 is amended by revising the table heading for “District of Columbia --Sulfur Dioxide” to read “District of Columbia--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.
11. Section 81.310 is amended as follows:
 - a. By revising the table heading for “Florida--Sulfur Dioxide” to read “Florida--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”;
 - b. By adding a new table entitled “Florida--2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Florida--1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§81.310 Florida.

* * * * *

Florida--2010 Sulfur Dioxide NAAQS (Primary)

Designated Area	Designation	
	Date	Type
Hillsborough County, FL ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
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) 35881, 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.		
Nassau County, FL ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment

	REGISTE R]	
Nassau County, (part)		
That portion of Nassau County encompassing the circular boundary with the center being UTM Easting 455530 meters, UTM Northing 3391737 meters, UTM zone 17, using the NAD83 datum (the location of the violating ambient monitor) and the radius being 2.4 kilometers.		

¹Excludes Indian country located in each area, if any, unless otherwise specified.

12. Section 81.311 is amended by revising the table heading for “Georgia--Sulfur Dioxide” to read “Georgia--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

13. Section 81.312 is amended by revising the table heading for “Hawaii--Sulfur Dioxide” to read “Hawaii--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

14. Section 81.313 is amended by revising the table heading for “Idaho--Sulfur Dioxide” to read “Idaho--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

15. Section 81.314 is amended as follows:

a. By revising the table heading for “Illinois--Sulfur Dioxide” to read “Illinois--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”;

b. By adding a new table entitled “Illinois--2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Illinois--1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§81.314 Illinois.

* * * * *

Illinois--2010 Sulfur Dioxide NAAQS (Primary)

Designated Area	Designation	
	Date	Type
Lemont, IL ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Cook County (part)		
Will County (part)		
DuPage Township and Lockport Township		
Pekin, IL ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Tazewell County (part)		
Cincinnati Township and Pekin Township		
Peoria County (part)		
Hollis Township		

¹Excludes Indian country located in each area, if any, unless otherwise specified.

16. Section 81.315 is amended as follows:

- a. By revising the table heading for “Indiana--Sulfur Dioxide” to read “Indiana--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and

b. By adding a new table entitled “Indiana--2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Indiana--1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§81.315 Indiana.

* * * * *

Indiana--2010 Sulfur Dioxide NAAQS (Primary)

Designated Area	Designation	
	Date	Type
Indianapolis, IN ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Marion County (part)		
Wayne Township, Center Township, Perry Township		
Morgan County, IN ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Morgan County (part)		
Clay Township, Washington Township		
Southwest Indiana, IN ¹	[INSERT DATE 60 DAYS AFTER	Nonattainment

	PUBLICA TION IN THE FEDERAL REGISTE R]	
Daviess County (part)		
Veale Township		
Pike County (part)		
Washington Township		
Terre Haute, IN ¹	[INSERT DATE 60 DAYS AFTER PUBLICA TION IN THE FEDERAL REGISTE R]	Nonattainment
Vigo County (part)		
Fayette Township, Harrison Township		

¹Excludes Indian country located in each area, if any, unless otherwise specified.

17. Section 81.316 is amended as follows:

a. By revising the table heading for “Iowa--Sulfur Dioxide” to read “Iowa--
1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and

b. By adding a new table entitled “Iowa--2010 Sulfur Dioxide NAAQS
(Primary)” following the newly designated table “Iowa--1971 Sulfur Dioxide
NAAQS (Primary and Secondary)” to read as follows:

§81.316 Iowa.

* * * * *

Iowa--2010 Sulfur Dioxide NAAQS (Primary)

	Designation
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Designated Area	Date	Type
Muscatine, IA ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Muscatine County (part)		
Sections 1-3, 10-15, 22-27, 34-36 of T77N, R3W (Lake Township)		
Sections 1-3, 10-15, 22-27, 34-36 of T76N, R3W (Seventy-six Township)		
T77N, R2W (Bloomington Township)		
T76N, R2W (Fruitland Township)		
All sections except 1, 12, 13, 24, 25, 36 of T77N, R1W (Sweetland Township)		

¹Excludes Indian country located in each area, if any, unless otherwise specified.

18. Section 81.317 is amended by revising the table heading for “Kansas--Sulfur Dioxide” to read “Kansas--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

19. Section 81.318 is amended as follows:

- a. By revising the table heading for “Kentucky--Sulfur Dioxide” to read “Kentucky--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”;
- and
- b. By adding a new table entitled “Kentucky--2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Kentucky--1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§81.318 Kentucky.

* * * * *

Kentucky--2010 Sulfur Dioxide NAAQS (Primary)

Designated Area	Designation	
	Date	Type
Campbell-Clermont Counties, KY-OH ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Campbell County (part)		
That portion of Campbell County which lies south and west of the Ohio River described as follows: Beginning at geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude (NAD 1983) on the edge of the Ohio River running southwesterly to KY Highway 1566; thence continuing running southwesterly along KY Highway 1566 to KY Highway 9 (AA Highway); thence running northwesterly along KY Highway 9 (AA Highway) from Hwy 1566 to Interstate 275; thence running northeasterly along Interstate 275 to Highway 2345 (John's Hill Road), Hwy 2345 to US-27, US-27 to I-275, I-275 to the Ohio River; thence running southeasterly along the Ohio River from Interstate 275 to geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude (NAD 1983).		
Jefferson County, KY ¹	[INSERT DATE 60 DAYS]	Nonattainment

	AFTER PUBLICA TION IN THE FEDERAL REGISTE R]	
Jefferson County (part)		
<p>That portion of Jefferson County compassed by the polygon with the vertices using Universal Traverse Mercator (UTM) coordinates in UTM zone 16 with datum NAD83 as follows:</p> <p>(1) Ethan Allen Way extended to the Ohio River at UTM Easting (m) 595738, UTM Northing 4214086 and Dixie Highway (US60 and US31W) at UTM Easting (m) 59751, UTM Northing 4212946;</p> <p>(2): Along Dixie Highway from UTM Easting (m) 597515, UTM Northing 4212946 to UTM Easting (m) 595859, UTM Northing 4210678;</p> <p>(3): Near the adjacent property lines of Louisville Gas and Electric - Mill Creek Electric Generating Station and Kosmos Cement where they join Dixie Highway at UTM Easting (m) 595859, UTM Northing 4210678 and the Ohio River at UTM Easting (m) 595326, UTM Northing 4211014;</p> <p>(4): Along the Ohio River from UTM Easting (m) 595326, UTM Northing 4211014 to UTM Easting (m) 595738, UTM Northing 4214086.</p>		

¹Excludes Indian country located in each area, if any, unless otherwise specified.

20. Section 81.319 is amended as follows:

- a. By revising the table heading for “Louisiana--Sulfur Dioxide” to read “Louisiana--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and
- b. By adding a new table entitled “Louisiana--2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Louisiana--1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§81.319 Louisiana.

* * * * *

Louisiana--2010 Sulfur Dioxide NAAQS (Primary)

Designated Area	Designation	
	Date	Type
St. Bernard Parish, LA ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
St. Bernard Parish		

¹Excludes Indian country located in each area, if any, unless otherwise specified.

- 21. Section 81.320 is amended by revising the table heading for “Maine--Sulfur Dioxide” to read “Maine--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.
- 22. Section 81.321 is amended by revising the table heading for “Maryland--Sulfur Dioxide” to read “Maryland--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

23. Section 81.322 is amended by revising the table heading for “Massachusetts--Sulfur Dioxide” to read “Massachusetts--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

24. Section 81.323 is amended as follows:

a. By revising the table heading for “Michigan--Sulfur Dioxide” to read “Michigan--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and

b. By adding a new table entitled “Michigan--2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Michigan--1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§81.323 Michigan.

* * * * *

Michigan--2010 Sulfur Dioxide NAAQS (Primary)

Designated Area	Designation	
	Date	Type
Detroit, MI ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Wayne County (part)		
The area bounded on the east by the Michigan-Ontario border, on the south by the Wayne County-Monroe County border, on the west by Interstate 75 north to Southfield Road, Southfield Road to Interstate 94, and Interstate 94 north to		

Michigan Avenue, and on the north by Michigan Avenue to Woodward Avenue and a line on Woodward Avenue extended to the Michigan-Ontario border.		
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¹Excludes Indian country located in each area, if any, unless otherwise specified.

25. Section 81.324 is amended by revising the table heading for “Minnesota--Sulfur Dioxide” to read “Minnesota--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

26. Section 81.325 is amended by revising the table heading for “Mississippi--Sulfur Dioxide” to read “Mississippi--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

27. Section 81.326 is amended as follows:

a. By revising the table heading for “Missouri--Sulfur Dioxide” to read “Missouri--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”;

b. By adding a new table entitled “Missouri--2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Missouri--1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§81.326 Missouri.

* * * * *

Missouri--2010 Sulfur Dioxide NAAQS (Primary)

Designated Area	Designation	
	Date	Type
Jackson County, MO ¹	[INSERT DATE 60 DAYS AFTER PUBLICA	Nonattainment

	TION IN THE FEDERAL REGISTE R]	
Jackson County (part)		
The portion of Jackson County bounded by I-70/I-670 and the Missouri River to the north; and, to the west of I-435 to the state line separating Missouri and Kansas.		
Jefferson County, MO ¹	[INSERT DATE 60 DAYS AFTER PUBLICA TION IN THE FEDERAL REGISTE R]	Nonattainment
Jefferson County (part)		
That portion within Jefferson County described by connecting the following four sets of UTM coordinates moving in a clockwise manner:		
(Herculaneum USGS Quadrangle) 718360.283 4250477.056 729301.869 4250718.415 729704.134 4236840.30 718762.547 4236558.715		
(Festus USGS Quadrangle) 718762.547 4236558.715 729704.134 4236840.30 730066.171 4223042.637 719124.585 4222680.6		
(Selma USGS Quadrangle) 729704.134 4236840.30 730428.209 4236840.3 741047.984 4223283.996 730066.171 4223042.637		

(Valmeyer USGS Quadrangle) 729301.869 4250718.415 731474.096 4250798.868 730428.209 4236840.3 729704.134 4236840.30		
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¹Excludes Indian country located in each area, if any, unless otherwise specified.

28. Section 81.327 is amended as follows:

a. By revising the table heading for “Montana--Sulfur Dioxide” to read “Montana--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and

b. By adding a new table entitled “Montana--2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Montana--1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§81.327 Montana.

* * * * *

Montana--2010 Sulfur Dioxide NAAQS (Primary)

Designated Area	Designation	
	Date	Type
Billings, MT ¹	[INSERT DATE 60 DAYS AFTER PUBLICA TION IN THE FEDERAL REGISTE R]	Nonattainment
Yellowstone County (part)		
The area originates at the point defined as the southwest corner of Section 11, Township 1S, Range 26E. From that point the boundary proceeds north along the western		

<p>section line of Section 11 to the point of intersection with the midline of Interstate Highway 90. From that point the boundary follows the midline of Interstate Highway 90, across the Yellowstone River, to the point where the highway midline intersects the northern boundary of Section 35, Township 1N, Range 26E. From that point the boundary proceeds east along the northern section line of Sections 35 and 31 to the point where Old US 87/Hardin Road leaves the section line and turns southeast. The boundary follows the midline of Old US 87/Hardin Road southeast to the point where the road intersects the western boundary of the SE ¼ of the SE ¼ of Section 31, Township 1N, Range 27E. From that point the boundary proceeds south along the ¼ section line to the southern boundary of Township 1N, then east to the northeast corner of Section 5, Township 1S, Range 27E. The boundary then proceeds south along the eastern section line of sections 5 and 9 to the southeast corner of Section 9, Township 1S, Range 27E, where it turns west and follows the south section line of Sections 9 and 7, Township 1S, Range 27E; and Sections 12 and 11, Township 1S, Range 26E, back to the point of origin.</p>		
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¹Excludes Indian country located in each area, if any, unless otherwise specified.

29. Section 81.328 is amended by revising the table heading for “Nebraska--Sulfur Dioxide” to read “Nebraska--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

30. Section 81.329 is amended by revising the table heading for “Nevada--Sulfur Dioxide” to read “Nevada--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

31. Section 81.330 is amended as follows:

a. By revising the table heading for “New Hampshire--Sulfur Dioxide” to read “New Hampshire--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”;

b. By adding a new table entitled “New Hampshire--2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “New Hampshire--1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§81.330 New Hampshire.

* * * * *

New Hampshire--2010 Sulfur Dioxide NAAQS (Primary)

Designated Area	Designation	
	Date	Type
Central New Hampshire, NH ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Hillsborough County (part)		
Goffstown Town		
Merrimack County (part)		
Allenstown Town, Bow Town, Chichester Town, Dunbarton Town, Epsom Town, Hooksett Town, Loudon Town, Pembroke Town, Pittsfield Town, City of Concord		
Rockingham County (part)		

Candia Town, Deerfield Town, Northwood Town		
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¹Excludes Indian country located in each area, if any, unless otherwise specified.

32. Section 81.331 is amended by revising the table heading for “New Jersey--Sulfur Dioxide” to read “New Jersey--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

33. Section 81.332 is amended by revising the table heading for “New Mexico--Sulfur Dioxide” to read “New Mexico--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

34. Section 81.333 is amended by revising the table heading for “New York--Sulfur Dioxide” to read “New York--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

35. Section 81.334 is amended by revising the table heading for “North Carolina--Sulfur Dioxide” to read “North Carolina--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

36. Section 81.335 is amended by revising the table heading for “North Dakota--Sulfur Dioxide” to read “North Dakota--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

37. Section 81.336 is amended as follows:

- a. By revising the table heading for “Ohio--Sulfur Dioxide” to read “Ohio--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and

b. By adding a new table entitled “Ohio--2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Ohio--1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§81.336 Ohio.

Ohio--2010 Sulfur Dioxide NAAQS (Primary)

Designated Area	Designation	
	Date	Type
Campbell-Clermont Counties, KY-OH ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Clermont County (part)		
Lake County, OH ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Lake County		
Muskingum River, OH ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment

	FEDERAL REGISTE R]	
Morgan County (part)		
Center Township		
Washington County (part)		
Waterford Township		
Steubenville OH-WV ¹	[INSERT DATE 60 DAYS AFTER PUBLICA TION IN THE FEDERAL REGISTE R]	Nonattainment
Jefferson County (part)		
Cross Creek Township, Steubenville Township, Warren Township, Wells Township, Steubenville City		

¹Excludes Indian country located in each area, if any, unless otherwise specified.

38. Section 81.337 is amended by revising the table heading for “Oklahoma--Sulfur Dioxide” to read “Oklahoma--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

39. Section 81.338 is amended by revising the table heading for “Oregon--Sulfur Dioxide” to read “Oregon--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

40. Section 81.339 is amended as follows:

a. By revising the table heading for “Pennsylvania--Sulfur Dioxide” to read “Pennsylvania--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and

b. By adding a new table entitled "Pennsylvania--2010 Sulfur Dioxide NAAQS (Primary)" following the newly designated table "Pennsylvania--1971 Sulfur Dioxide NAAQS (Primary and Secondary)" to read as follows:

§81.339 Pennsylvania.

* * * * *

Pennsylvania--2010 Sulfur Dioxide NAAQS (Primary)

Designated Area	Designation	
	Date	Type
Allegheny, PA ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Allegheny County (part)		
The area consisting of: Borough of Braddock Borough of Dravosburg Borough of East McKeesport Borough of East Pittsburgh Borough of Elizabeth Borough of Glassport Borough of Jefferson Hills Borough of Liberty Borough of Lincoln Borough of North Braddock Borough of Pleasant Hills Borough of Port Vue Borough of Versailles Borough of Wall Borough of West Elizabeth Borough of West Mifflin City of Clairton City of Duquesne		

City of McKeesport Elizabeth Township Forward Township North Versailles Township		
Beaver, PA ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Beaver County (part)		
Area consisting of Industry Borough, Shippingport Borough, Midland Borough, Brighton Township, Potter Township and Vanport Township		
Indiana, PA ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Indiana County		
Armstrong County (part)		
Area consisting of Plumcreek Township, South Bend Township, and Elderton Borough		
Warren, PA ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment

	REGISTE RJ	
Warren County (part)		
Area consisting of Conewago Township, Glade Township, Pleasant Township, and the City of Warren		

¹Excludes Indian country located in each area, if any, unless otherwise specified.

41. Section 81.340 is amended by revising the table heading for “Rhode Island--Sulfur Dioxide” to read “Rhode Island--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

42. Section 81.341 is amended by revising the table heading for “South Carolina--Sulfur Dioxide” to read “South Carolina--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

43. Section 81.342 is amended by revising the table heading for “South Dakota--Sulfur Dioxide” to read “South Dakota--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

44. Section 81.343 is amended as follows:

a. By revising the table heading for “Tennessee--Sulfur Dioxide” to read “Tennessee--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”;

b. By adding a new table entitled “Tennessee--2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Tennessee--1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§81.343 Tennessee.

* * * * *

Tennessee--2010 Sulfur Dioxide NAAQS (Primary)
Page 50 of 54

Designated Area	Designation	
	Date	Type
Sullivan County, TN ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Sullivan County (part)		
That portion of Sullivan County encompassing a circle having its center at the B-253 power house coordinates 36.5186 N; 82.5350 W and having a 3-kilometer radius.		

¹Excludes Indian country located in each area, if any, unless otherwise specified.

45. Section 81.344 is amended by revising the table heading for “Texas--Sulfur Dioxide” to read “Texas--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

46. Section 81.345 is amended by revising the table heading for “Utah--Sulfur Dioxide” to read “Utah--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

47. Section 81.346 is amended by revising the table heading for “Vermont--Sulfur Dioxide” to read “Vermont--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

48. Section 81.347 is amended by revising the table heading for “Virginia--Sulfur Dioxide” to read “Virginia--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

49. Section 81.348 is amended by revising the table heading for “Washington--Sulfur Dioxide” to read “Washington--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

50. Section 81.349 is amended as follows:

a. By revising the table heading for “West Virginia--Sulfur Dioxide” to read “West Virginia--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and

b. By adding a new table entitled “West Virginia--2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “West Virginia--1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§81.349 West Virginia.

* * * * *

West Virginia--2010 Sulfur Dioxide NAAQS (Primary)

Designated Area	Designation	
	Date	Type
Steubenville, OH-WV ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Brooke County (part)		
Area bounded by the Cross Creek Tax District		
Marshall, WV ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Marshall County (part)		
Area consisting of Clay Tax district, Franklin Tax District, and		

Washington Tax District		
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¹Excludes Indian country located in each area, if any, unless otherwise specified.

51. Section 81.350 is amended as follows:

- a. By revising the table heading for “Wisconsin--Sulfur Dioxide” to read “Wisconsin--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and
- b. By adding a new table entitled “Wisconsin--2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Wisconsin--1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§81.350 Wisconsin.

* * * * *

Wisconsin--2010 Sulfur Dioxide NAAQS (Primary)

Designated Area	Designation	
	Date	Type
Rhineland, WI ¹	[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Nonattainment
Oneida County (part)		
City of Rhineland, Crescent Town, Newbold Town, Pine Lake Town, and Pelican Town		

¹Excludes Indian country located in each area, if any, unless otherwise specified.

52. Section 81.351 is amended by revising the table heading for “Wyoming--Sulfur Dioxide” to read “Wyoming--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

53. Section 81.352 is amended by revising the table heading for “American Samoa--Sulfur Dioxide” to read “American Samoa--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

54. Section 81.353 is amended by revising the table heading for “Guam--Sulfur Dioxide” to read “Guam--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

55. Section 81.354 is amended by revising the table heading for “Northern Mariana Islands--Sulfur Dioxide” to read “Northern Mariana Islands--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

56. Section 81.355 is amended by revising the table heading for “Puerto Rico--Sulfur Dioxide” to read “Puerto Rico--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

57. Section 81.356 is amended by revising the table heading for “Virgin Islands--Sulfur Dioxide” to read “Virgin Islands--1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

**Responses to Significant Comments on the State and Tribal Designation
Recommendations for the 2010 Sulfur Dioxide National Ambient Air Quality
Standards (NAAQS)**

Docket Number EPA-HQ-OAR-2012-0233
U.S. Environmental Protection Agency

July 2013

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List of Abbreviations and Acronyms

CAA	Clean Air Act
EPA	Environmental Protection Agency
FR	Federal Register
NAA	Nonattainment Area
NAAQS	National Ambient Air Quality Standard
NFR	Notice of Final Rulemaking
OAQPS	EPA Office of Air Quality Planning and Standards
PPB	Parts Per Billion
SO ₂	Sulfur Dioxide
SIP	State Implementation Plan
TPY	Tons Per Year
TSD	Technical Support Document

1.0 Introduction

This document, together with the preamble to the final designations action, and the Technical Support Documents (TSDs) for the designations, presents the responses of EPA to the significant comments we received on our initial designations decisions conveyed to states in February 2013. The responses presented in this document are intended to augment the responses to comments that appear in the preamble to the final action and the TSDs or to address comments not discussed in those documents.

2.0 Background

On June 2, 2010, the United States Environmental Protection Agency (EPA) revised the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO₂) to provide increased protection of public health from SO₂ pollution. The EPA established a new primary 1-hour SO₂ standard at a level of 75 ppb to protect against health effects associated with SO₂ exposure, including a range of serious respiratory illnesses. The EPA retained the secondary 3-hour SO₂ standard on March 20, 2012, to protect against welfare effects, including impacts on sensitive vegetation and forested ecosystems.

History shows us that better health and cleaner air go hand-in-hand with economic growth. Working closely with the states and tribes, the EPA is implementing the 2010 SO₂ standard using a common sense approach that improves air quality and minimizes the burden on state and local governments. As part of this process, the EPA is working with the states and tribes to identify areas in the country that meet the standard and those that need to take steps to reduce SO₂ pollution. Within one year after a new or revised air quality standard is established, the Clean Air Act (CAA) directs the Governor of each state to submit to the EPA a list of all areas in the state, with recommendations for whether each area meets the standard. As a first step in implementing the 2010 SO₂ standard, the EPA asked states to submit their designation recommendations, including appropriate area boundaries, by June 3, 2011. The EPA later took steps to extend the designation process for the 2010 SO₂ standard by 1 year due to having insufficient information to make initial area designations at that time. With this extension, the statutory deadline to complete designations is June 3, 2013.

On February 7, 2013, the EPA sent letters (often referred to as "120-day letters") to state and tribal representatives responding to some of their recommendations and identifying an initial set of areas that do not meet the 2010 SO₂ standard based on three years of monitoring data showing NAAQS violations. For other areas, EPA explained that it was not yet prepared to propose or take final designations actions. States, tribes, and the public had the opportunity to comment on the EPA's preliminary designations decisions for the initial set of areas, and to provide new information and analyses to the EPA.

3.0 Responses to Significant Comments on the First Round of Initial Area Designations for the 2010 SO₂ National Ambient Air Quality Standards (NAAQS)

The following sections are summaries of significant comments received on EPA's preliminary designation decisions for the areas that EPA is designating nonattainment based on monitored violations, and the EPA's responses to those comments.

3.1 General Issues

3.1.1. Not Yet Taking Action on Areas With No Monitored Violation

Comment: EPA's February 6, 2013, letters stated that EPA was not yet prepared to include in the initial round of proposed designations any areas for the SO₂ NAAQS which had no monitors with 3 years of data showing violations. This approach does not appear to be an option for EPA to avoid issuing designations under the Clean Air Act. Therefore, EPA should designate all areas with no violating ambient monitoring data as "unclassifiable/attainment" since there is no evidence of violations in such areas. This approach is similar to the one taken by EPA when completing the initial designations for the 2010 short-term NAAQS for nitrogen dioxide (NO₂). A designation is required under the CAA, and EPA should act to issue one of the three designations provided in the CAA. Failure to designate areas by June 2013 for the SO₂ standard seems to be ignoring the statutory duty of EPA under the CAA and opening the door to litigation. This approach does not seem to be the best use of limited resources both at EPA and in the state agencies. Two other commenters also requested that EPA designate as unclassifiable those areas for which there is currently no SO₂ air monitoring data, noting that this would enable EPA to meet its statutory deadline for completing designations. The commenters state that CAA section 107(d)(1)(A)(iii) provides that any area that cannot be classified on the basis of available information as meeting or not meeting the NAAQS should be designated as unclassifiable. The commenters note that EPA has designated areas as unclassifiable for several pollutants in the past, including an "unclassifiable/attainment" designation under the 2010 NO₂ NAAQS for all areas in the country. The commenter further notes that for the 2010 NO₂ NAAQS, EPA promulgated designations approximately two years after the new NO₂ NAAQS was finalized and that since issuing those designations EPA has continued to work on collecting additional air quality data for the 2010 NO₂ NAAQS.

EPA's Response: These comments do not address, either in support or opposition, EPA's specific proposed designations actions for the areas discussed in the agency's February 6, 2013, letters regarding those specific areas. EPA is not yet taking any final action regarding other areas. Therefore, the comments are not germane to the specific proposed initial designations addressed in this final action, and are outside the scope of this action. It is therefore not necessary for EPA to respond to the points raised by these comments regarding other areas that are not addressed in this initial action, and EPA has neither proposed action for those areas nor taken final action for them in this round of designations.

However, for informational purposes, EPA wishes to remind stakeholders that in the SO₂ NAAQS final rule and past discussions with stakeholders, it has been frequently acknowledged that the current SO₂ monitoring network provides relatively limited geographic coverage, and many monitors in the existing network are not sited with the objective of characterizing source-oriented maximum concentrations. The EPA is moving forward at this time with area designations for a set of areas with monitors showing violations based on 3 calendar years of data. As the EPA explained in the proposed designations, the agency is not at this time prepared to propose or take final designations action on other areas not addressed by our first round of proposed designations. In light of potential public health impacts that may exist but are not being adequately characterized by the existing monitoring network, the EPA believes that it would be preferable to obtain additional data and information regarding SO₂ emissions at remaining areas to possibly support more definitive future nonattainment and/or attainment designations for such areas, rather than designating these areas as unclassifiable based on the limited information about SO₂ air quality the agency now has. The EPA developed a draft strategy for implementing the SO₂ NAAQS on the basis of several stakeholder discussions that focuses on characterizing air quality in areas with the largest sources and then using these data for future designation actions. Under this draft strategy, if followed, states would have the flexibility to characterize air quality through monitoring or modeling, and, in addition to any case-by-case designations issued based on new information, two additional general rounds of designations would provide states time to collect this information. In developing this draft strategy, which continues to evolve, the EPA has taken into consideration the comments we received following the Final SO₂ NAAQS Rule, the March 2011 draft designations guidance, the September 2011 draft implementation guidance, and the three stakeholder meetings held in 2012. After assessing the different issues raised in these comments, the EPA hopes to follow what it believes is the most common-sense approach for implementing the SO₂ NAAQS. The agency expects that this approach will allow each state to take a primary role in deciding how to characterize air quality in its own priority source areas.

Comment: The commenters state that EPA has not identified a statutory basis to delay designations pending planned revisions to the SO₂ monitoring network requirements as part of the implementation of the 2010 1-hour SO₂ NAAQS. The commenters believe that in similar fashion to the 2008 lead NAAQS, EPA should not allow future planned revisions to the existing SO₂ monitoring network requirements to result in the delay of designations for any areas in the country.

EPA's Response: As stated in the February 15, 2013 Federal Register notice of availability and public comment period for EPA's responses to state and tribal SO₂ designation recommendations (78 FR 11124), the EPA is not yet prepared to respond to state and tribal area designation recommendations, or seek public input thereon, for areas other than those with monitored violations of the 2010 SO₂ NAAQS addressed in the February 15, 2013 notice. EPA intends to address the remaining areas in the country, including those areas for which there is currently no SO₂ air monitoring data, in a subsequent round or multiple rounds of responses and designations once additional data are gathered. However, as is made clear in the February 15, 2013 notice, the EPA in that

action was not proposing as a regulatory action and was not soliciting public comments on the intended approach for these other areas, regarding either designations or implementation. Opportunities for additional public input on EPA's intended approach for these other areas will be available. We invite future public participation from this commenter and others when these opportunities are provided.

Comment: Multiple commenters discuss that the ambient monitoring data demonstrates compliance with the 1-hour SO₂ NAAQS and that EPA has approved their monitoring networks and even previous State Implementation Plans (SIPs). This information should not be disregarded. Additionally, EPA has acknowledged in the 120-day letters that 2009-2011 air quality data shows no violations of the 2010 SO₂ standard in many of Region 8's counties. Thus EPA should proceed with designations for all areas based on the information that is presently available and not defer. Further, the deferral ignores Section 107 of the Clean Air Act's timeline for designations and nowhere in the CAA does it allow EPA to defer designations any further than past the 1-year extension that EPA has already taken. EPA recognized and anticipated at the time of the 1-year extension that most areas of the country will be designated unclassifiable. One commenter discusses that EPA seems to be contemplating future rulemaking to require some level of modeling analysis to accompany the analysis on monitored data but since this rulemaking does not exist at this time designations should be completed. Another commenter discusses the negative effects of deferral which include development of a new SIP without having effective designations in place, harm to stakeholders by not providing clear designations, uncertainty for another eight years, state planners do not know where to direct resources due to EPA's indecisiveness, and the deferred planning schedule will overlap the 2015 designation process.

EPA's Response: EPA disagrees with the commenters assertion that EPA is disregarding monitoring data and previous SIPs in this initial round of final designations, since we are not at this time reaching any final conclusions about areas that do not have violating monitors. Objections to EPA's not yet addressing other areas are outside the scope of this final action, and all concerns regarding the treatment of such areas should be raised in response to EPA's future proposed designations for those areas.

Comment: One commenter says EPA should follow what was done for the 1-hour NO₂ designation process, which met the requirements of the CAA but also allowed for more time to collect data.

EPA's Response: At this time, we are only initially designating areas with violating monitors, and are not yet prepared to address the remaining areas. Concerns about how such remaining areas are addressed should be raised in response to our future proposed designations for those areas.

3.1.2. Basing Nonattainment Designations on Modeling

Comment: A couple of commenters said that EPA's intention in its February 2013 120-day letters to designate 30 areas consisting of just 10 counties and 31 partial counties,

while not proposing or issuing final designations for the remaining roughly 3000 counties in the country for years beyond the June 2013 designation deadline is unlawful. The existing SO₂ monitoring network is inadequate to the task of ascertaining attainment; nor is reliance on monitors alone effective for determining what areas are failing to attain the NAAQS. Instead, EPA must base its designations on all evidence before it, including modeling analyses, as has been its longstanding historical practice. EPA must designate all areas as nonattainment for which modeling shows exceedances of the NAAQS. Even under EPA's delayed implementation schedule, designations must be made based on modeling.

For the foregoing reasons, EPA must designate in June 2013 as nonattainment all those areas modeled to have exceedances of the 1-hour SO₂ NAAQS in the enclosed analyses. Absent such nonattainment findings, the SIPs prepared and submitted by the states will be inadequate unless they include or reference federally enforceable emission limitations informed by modeling sufficient to prevent exceedances of the standard.

EPA's Response: The majority of these comments, including modeling analyses, do not address, either in support or opposition, the EPA's specific intended designations actions for the areas discussed in the agency's February 6, 2013, letters regarding those specific areas. Therefore, these points are not germane to the specific proposed initial designations, and are outside the scope of this action. It is therefore not necessary for the EPA to respond to the points raised by these comments regarding other areas that are not addressed in this initial action, and the EPA has neither proposed a designation action for those areas nor taken final action for them in this round of designations. Nor has the EPA proposed action or taken final action regarding whether other evidence such as modeling may support specific nonattainment designations under the 1-hour SO₂ NAAQS. The EPA will take the commenters' points under advisement when other areas are addressed, and urge commenters to re-submit their comments in response to the EPA's future proposed designations, when they occur, if the commenters still have such concerns at that time.

Nine of the SO₂ emissions sources identified in these comments are located within the boundaries of the nonattainment areas the EPA is finalizing at this time. The modeling and other information provided by the commenters does not appear to conflict with EPA's conclusions regarding the areas currently being designated nonattainment, which EPA is basing at this time on the available monitoring data. EPA is not at this time prepared to reach final conclusions based on such modeling information, either to reject or accept it as a basis for expanding our first round of nonattainment designations. EPA is moving forward at this time with area designations for a set of areas with 3 years of monitoring data showing violations. The Federal Register notice announcing the public comment period for the proposed designations was specific to those areas we are currently designating nonattainment and the commenters did not submit any information suggesting they object to the proposed nonattainment designations for those specific areas. EPA has developed a draft strategy for implementing the SO₂ NAAQS on the basis of meetings with several stakeholders that focuses on characterizing air quality in areas with the largest sources and in the more populated areas and using this data in

future designations. Under this draft strategy, if followed, states would have the flexibility to characterize air quality in these areas through monitoring or modeling, and additional rounds of designations (in addition to any case-by-case designations based on new information) would provide states time to collect this information and provide it to EPA as it becomes available. In developing this draft strategy, which continues to evolve, EPA has taken into consideration the comments we received following the Final SO₂ NAAQS Rule, the March 2011 draft designations guidance, the September 2011 draft implementation guidance, and the three stakeholder meetings held in 2012. After assessing the different issues raised in these comments, the EPA hopes to follow what it believes is the most common-sense approach for implementing the SO₂ NAAQS.

As stated above, the EPA did not propose and is not taking final action at this time to conclude whether modeling and other information besides monitoring is appropriate to support specific designations under the SO₂ NAAQS. Instead, we are only concluding that the initial designations of nonattainment are appropriate for the specific areas where 3 calendar years of monitoring data support a conclusion that the NAAQS is violated. The EPA intends to further address how modeling may be appropriately used in future designations for additional areas under the SO₂ NAAQS in forthcoming rulemaking and technical assistance documents.

3.1.3. Revocation of Old Standard

Comment: EPA should forward with revocation of the older SO₂ standards (annual and 24-hour standards).

EPA's Response: The final SO₂ NAAQS rulemaking already addressed how and when revocation of the prior primary NAAQS would occur, and EPA did not propose to reopen that issue in this action. Therefore, it is outside the scope of this final designations action, and it is not necessary for EPA to respond to this comment. However, for informational purposes, EPA directs the commenter to the final NAAQS preamble's discussion of this issue, at 75 FR 35549-50, 35580-82, and to the regulatory text adopted with the NAAQS at 40 CFR 50.4(e). This regulatory text provides that the prior primary SO₂ NAAQS will remain applicable to an area until 1 year after the effective date of that area's designation under the 1-hour SO₂ NAAQS, and then no longer apply, except in the case of areas that at the time of promulgation of the 1-hour NAAQS were designated nonattainment under the prior primary NAAQS or were not meeting the requirements of a SIP call under the prior NAAQS; for those areas, the prior NAAQS would not be revoked until the area submits under CAA section 191 and EPA approves a SIP providing for attainment of the new 1-hour NAAQS. 40 CFR 50.4(e). In the preamble discussion of this issue, EPA explained that states were directed to continue implementing attainment and maintenance SIPs associated with the prior NAAQS until they are subsumed by any new planning and control requirements associated with the new NAAQS, in order to assure compliance with the Clean Air Act requirements of section 110(l), 172(e) and 193, as applicable. 75 FR at 35580-82. We note that in none of the several petitions for administrative reconsideration of the final NAAQS that we received did anyone ask us to revisit this issue. Nor did any of the numerous litigants challenging

the final NAAQS object to our treatment of revocation of the prior NAAQS. We do not regard the comments on the proposed designation action as constituting a new administrative petition for rulemaking to revise the final NAAQS rulemaking's promulgation of 40 CFR 50.4(e), as in our proposed designation action we gave no indication of any intention to reopen that issue. Finally, if we were to amend section 50.4(e), the rulemaking requirements of CAA section 307(d) would apply to such an action, while under CAA section 107 no such requirements apply to designations actions and we did not voluntarily designate this action as a section 307(d) rulemaking. Therefore, this action would not have been an appropriate one for undertaking any amendment to 40 CFR 50.4(e).

3.1.4. Requests to Extend the Public Comment Period

Comment: Several commenters from industries stated that the 30-day comment period is too short to effectively review the EPA's response to state's recommendations and compile meaningful responses; therefore, they requested a 30-day extension to the public comment period. This will allow them time to more thoughtfully consider both the policy and technical issues associated with the proposal. Specifically, the SO₂ issue in the Billings/Laurel, MT area is very complex and EPA's upcoming designation will have a significant impact on the area. There exists much historical and contemporaneous information that makes this area unique. Some of this information has already been submitted to EPA, but there is additional information and related comments that EPA should consider and more time is needed to compile, review and submit this information. Commenters believe the additional time is reasonable and fair given the potential and severe long-term effects of the proposed determination on Montana, the county, its diverse stakeholders and in the proposed rejection of Montana's own 2011 proposal. Given EPA has had nearly 2 years to consider Montana's (and others) comments, it seems reasonable to allow the public an additional 30 days for review.

EPA's Response: The EPA appreciates the time and effort of the commenters in participating in this matter. The EPA invited public comments on its responses to States and Tribes through March 18, 2013, and states were asked to comment by April 8, 2013. The EPA was able to accommodate the requests for an extension of the public comment period through April 8, 2013. Due to the statutory timeframe for promulgating designations set out in CAA Section 107(d), the EPA was unable to consider any public comments past April 8th. The April 8th deadline was necessary to allow EPA sufficient time to review and respond to all significant comments in advance of promulgating the 2010 SO₂ designations in July 2013.

3.2 Area-Specific Issues

3.2.1. EPA Region 1

3.2.1.1. State of Connecticut

Comment: EPA should designate Connecticut as attainment for the SO₂ NAAQS. In addition to monitoring SO₂ levels well below the NAAQS, DEEP has completed modeling of all sources in Connecticut with greater than 100 tpy actual emissions. This modeling, when based on actual emissions for those emission units with CEM data and allowable emissions for those units without CEM, shows attainment of the NAAQS.

EPA's Response: In this designations action, EPA is limiting its final conclusions to those areas with 3 calendar years of data showing violations of the 1-hour SO₂ NAAQS. Therefore, this comment is outside the scope of this specific final designations action. In EPA's February 2013 proposed response to certain state and tribal designation recommendations for the SO₂ NAAQS, EPA solicited comments regarding a specific set of areas which the Agency proposed to designate nonattainment. We specifically stated we were not soliciting comments on or prepared to propose designations for other areas for which states and tribes have submitted designation recommendations, including any areas that may ultimately become designated unclassifiable or attainment or for which modeling might be used to support a final designations decision. The EPA is still not yet prepared to respond to state and tribal area designation recommendations for these other areas, and intends to address such areas in a subsequent round or multiple rounds of proposed responses and final designations actions. At this time, EPA is not reaching a final decision in response to whether Connecticut has shown attainment of the 1-hour SO₂ NAAQS.

3.2.1.2. Central New Hampshire

Comment: One commenter agrees with EPA's proposal to designate a portion of New Hampshire as nonattainment for the SO₂ NAAQS. The commenter states that, "New Hampshire's recommendation correctly reflects the requirements of the Clean Air Act and its implementing regulations, which compel EPA to designate as SO₂ nonattainment areas the highlighted parts of Hillsborough, Merrimack, and Rockingham Counties. In addition, the proposed nonattainment designation is not only consistent with the law, but it is also necessary to protect public health and the environment." The highlighted area referred to in CLF's letter is the same area known as the Central New Hampshire SO₂ nonattainment area in EPA's Technical Support Document.

EPA's Response: The EPA acknowledges the commenter's support.

3.2.2. EPA Region 2

3.2.2.1. Warren County, NJ

Comment: One commenter recommends a nonattainment designation for Warren County and its surrounding area due to the impacts from the nearby Portland Power Plant. The commenter requests EPA reconsider its decision to not move forward with a nonattainment designation of Warren County and its vicinity.

The commenter states that EPA is without authority under the Clean Air Act to delay this nonattainment designation, which is in accordance with the evidence. Data from the Columbia Lake Wildlife Management Area (Columbia Lake) monitor, as well as modeling performed by NJDEP and EPA, demonstrates that the NRG/GenOn Portland Power Plant significantly contributes to and causes nonattainment of the 1-hour SO₂ NAAQS in New Jersey. The monitor continues to measure exceedances of the health standard when the coal units operate and the wind blows from the Portland stacks toward the monitor.

EPA's Response: After considering the recommendation and the additional information provided by New Jersey, we are still not prepared at this time to include the Warren County, New Jersey area in this initial round of final designations that is based only on monitors with 3 calendar years of data showing violations of the 1-hour SO₂ NAAQS. Moreover, as explained earlier, EPA is still not prepared at this time to base proposed or final nonattainment designations under the 1-hour NAAQS on modeling data, whether alone or as a supplement to complete or incomplete monitoring data. For this first round of SO₂ designations, only areas with monitored violations of the standard shown by 3 calendar years of data are being considered, as we explained in the proposal, and the Columbia Lake monitor had not at proposal and has still not been in operation at its site for 3 calendar years, and has not yet generated the necessary amount of data. Under EPA's rules, in order to calculate a valid design value for the area on which to base a designation based on monitoring, three complete calendar years of data are required. There are currently less than three complete calendar years of data for the air monitor located in Warren County, which began operating in September 2010. We recognize that additional data will be available soon, and we will continue to work with New Jersey and proceed as appropriate as additional monitoring data become available for the Warren County area, and as we further address how to consider modeling information to support designations under this NAAQS.

Comment: One commenter mentioned that federal regulations allow for data substitution in accordance with 40 CFR Parts 50-Appendix T, "Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Sulfur (sulfur dioxide)-Section 3(d). In fact, the USEPA is currently applying this rule to other sites with less than 75% data capture in a year, notably the monitor in Muscatine, Iowa, where missing data was substituted with zero values to declare the county as not attaining the health standard.

EPA's Response: Since the monitor in Warren County, New Jersey has not been in operation and generating data for the necessary 3 calendar year period in order to support a final nonattainment designation based on monitoring, we consider the request to designate Warren County based on a shorter period of monitoring operation as outside the scope of this final designations action. We disagree with the suggestion that the data substitution authority of 40 CFR part 50, appendix T, section 3(d) could be appropriately used in a situation where a monitor has not actually been in place for 3 years and there is no period in which the monitor "failed" to generate the data it was expected to provide. The data substitution authority presumes that an actually sited monitor had been expected to be operating and generating data over the subject 3 year period, but had for some

reason failed to generate valid data for some period within its 3-year operating period. The 2010 final SO₂ NAAQS preamble discussion regarding the appendix T data substitution nowhere suggests that the data substitution authority should be used to create a fictional period of monitor operation and data where a monitor did not actually exist for the assumed 3-year period. See 75 FR at 35582-85, and 40 CFR part 50, appendix T, section 3. Such a situation is very different from the Muscatine, Iowa situation, in which a monitor has been in place and operation for well over the minimum 3-year period, but failed to generate the expected amount of valid data and there is a missing period for which to substitute data. In Warren County, there is no period in which the monitor failed to generate data it was expected to provide, so there is no “gap” for which to substitute data. Finally, we note that in Warren County the minimum necessary 3-year period of the monitor’s operation will soon pass, and after that the EPA will be able to work with New Jersey to proceed as appropriate in response to the data the monitor has produced at that time. Therefore, we are not now prepared in this final designations action to extend the data substitution authority to a situation where there is no failed monitored period for which to substitute data that, under our rules, does not appear to have been contemplated.

3.2.3. EPA Region 3

3.2.3.1. State of Delaware

Comment: On June 13, 2011 Governor Jack Markell recommended that the EPA designate each of Delaware’s three counties as unclassifiable for the 2010 75 ppb 1-hour SO₂ NAAQS. Delaware now has a complete SO₂ monitoring network, and has complete air dispersion modeling that clearly supports a designation of attainment for the entire state.

EPA’s Response: The comment is outside the scope of this final designations action based on monitoring data. In this final action, EPA is only issuing final nonattainment area designations for areas with monitors that have 3 calendar years of data showing violations of the SO₂ NAAQS. EPA is not prepared that this time to address or take any action on other areas, which we will address in future final designations actions. Once EPA starts to address these other areas, the state may wish to provide this information for the record at that time.

3.2.3.2. Allegheny, PA Area

Comment: NRG Energy agrees with USEPA’s proposed nonattainment area for Allegheny County. The commenter indicates it is appropriate that the Elrama Generating Station located in Washington County PA should not be included in the nonattainment area. SO₂ ambient air monitoring exceedances and SO₂ emissions from Elrama were reviewed by the commenter and the commenter surmises that the analysis suggests that exceedances in Allegheny County may occur independent of operations at Elrama. Additionally the commenter indicates that the emission units at Elrama are currently in a layup status.

EPA's Response: The EPA concurs in general with the commenter's main point that EPA is not yet prepared to include the Elrama facility in Washington County, PA in the Allegheny PA nonattainment area. EPA does not feel there is sufficient information at this time to determine the designations status of any portion of Washington County PA, or support including any portion of Washington County PA in the initial Allegheny nonattainment area. At this time EPA is designating as nonattainment a portion of Allegheny County. Additional technical information on these topics can be found in the Allegheny PA Nonattainment Area section in the TSD that accompanies this action. However, EPA is also not yet prepared to reach any final decisions regarding whether the Elrama facility contributes to NAAQS violations on any other basis, and we will further address this source and Washington County in a future final designations action.

Comment: One commenter requests that EPA include portions of Washington County in the nonattainment area designation for the following reasons:

1. Two significant sources of SO₂ that combine to emit over 3,500 tons of SO₂ (based upon USEPA data) are located in close proximity of the Liberty monitor; and their location is south/southwest of the Liberty monitor, which EPA acknowledges are in a geographic location most likely to impact the Liberty monitor.

2. One source in Washington County is a local source (just over the border between Allegheny and Washington) that directly contributes to air quality conditions during inversion events which EPA alleges are the reasons for the exceedance at the Liberty monitor.

3. EPA has acknowledged the appropriateness to include significant sources of SO₂ beyond county lines in nonattainment designations, as it has with the Indiana nonattainment area, which includes Armstrong County.

For these reasons, the commenter encourages EPA and PADEP to include portions of Washington County with large SO₂ sources that are located in a geographic area most likely to impact the Liberty monitor as part of the nonattainment area.

EPA's Response: The EPA is not yet prepared, based on current information related to the monitored violation in Allegheny County, to conclude that sources in Washington County PA contribute to those monitored violations. The EPA will further address the Washington County sources in a future final designations action. While the EPA acknowledges that in some cases it is appropriate to include nearby sources beyond county lines in this initial round of monitoring-based designations, inclusion of additional sources is on a case by case basis, and in many cases we are choosing to limit the scope of our initial nonattainment designations while reserving for future analysis in a subsequent round of designations whether nearby sources and areas are causing or contributing to violations. In such cases, as in this one, we are not yet reaching final conclusions regarding initially excluded sources and areas. Regarding items #1 and #2, for now EPA acknowledges that there are sources in Washington County located near Allegheny County, but notes that emissions from these sources have been decreasing and

that one source is not currently operating. Despite an overall decrease in emissions from the sources in Washington County, the SO₂ levels at the Liberty monitor in Allegheny County has shown little variation, suggesting it is being primarily impacted by other sources. Additional information and technical analyses for both the Indiana PA Nonattainment Area and the Allegheny PA Nonattainment Area can be found in the Pennsylvania TSD which accompanies this action.

Comment: One commenter applied EPA's five factors for determining attainment with the new 1-hour SO₂ NAAQS and has determined that most of Allegheny County should not be designated as nonattainment. Rather, the commenter proposes the partial county "Lower Monongahela Valley SO₂ Nonattainment Area," which would include the following municipalities in Allegheny County: West Mifflin, Dravosburg, McKeesport, Versailles, Port Vue, Glassport, Liberty, Lincoln, Clairton, West Elizabeth, Elizabeth Township, Borough of Elizabeth, Forward, Jefferson Hills, and Pleasant Hills. Union Township and Finleyville Borough in Washington County should also be included in this nonattainment area as a partial county combination of the Monongahela Valley and Allegheny County Air Basins within the Southwest Pennsylvania Intrastate AQCR. The commenter asserts that the remainder of the county should be excluded from the nonattainment designation based on the application of EPA's five factors. Based on the results of the commenter's analysis using EPA's five factors for determining attainment with the new 1-hour SO₂ NAAQS, the commenter recommends that only the municipalities in Allegheny County and Washington County that were identified above be designated as the "Lower Monongahela Valley SO₂ Nonattainment Area." In addition, the commenter recommends that portions of Washington County should also be included in the Allegheny County nonattainment areas.

EPA's Response: EPA agrees that only a portion of Allegheny County needs to be part of the initial nonattainment area, while reserving for further analysis in a future designations action how other nearby areas should be designated. However in addition to the areas identified by ACHD, EPA is designating a few other portions of the county as part of the nonattainment area since a source of significant SO₂ emissions is located within these additional portions of the county. EPA does not agree that there is yet sufficient information to determine that a portion of Washington County PA should also be included in the Allegheny PA Nonattainment Area. Sources in Washington County will be further addressed in a future final designations action. Additional information can be found on these issues in the PA TSD in the section discussing the Allegheny PA Nonattainment Area.

Comment: Reduce the Allegheny County nonattainment area to the municipalities of the City of Clairton, the City of McKeesport, Dravosburg, Elizabeth, Glassport, Jefferson Hills, Liberty, Lincoln, Pleasant Hills, Port Vue, Versailles, West Elizabeth and West Mifflin Boroughs, and Elizabeth and Forward Townships. The reason for the recommended modification of the Allegheny County nonattainment area is outlined in Pennsylvania's revised recommendation letter, which can be found in the federal docket system.

EPA's Response: EPA agrees that only a portion of Allegheny County needs to be part of the initial nonattainment area, while reserving for further analysis in a future designations action how other nearby areas should be designated. However in addition to the areas identified by the Commonwealth, EPA is designating some other portions of the county as part of the nonattainment area since a source of significant SO₂ emissions is located within these additional portions of the county . Additional information can be found in the TSD in the discussion of the Allegheny PA Nonattainment Area.

3.2.3.3. Beaver, PA Area

Comment: Reduce the Beaver County nonattainment area to six municipalities: Brighton, Potter and Vanport Townships and Industry, Midland, and Shippingport Boroughs. The reason for the recommended modification of the Beaver County nonattainment area is outlined in Pennsylvania's revised recommendation letter, which can be found in the federal docket system.

EPA's Response: EPA reviewed the information provided by the Commonwealth and concurs that the initial Beaver PA Nonattainment Area should be reduced from the original proposal of the entire county to a partial county consisting of the municipalities identified by the Commonwealth of Pennsylvania. EPA will designate currently excluded areas in a future round of final designations. Additional information and analysis regarding this area is contained in the PA TSD that accompanies this action in the section of the TSD that discusses the Beaver PA Nonattainment Area.

3.2.3.4. Indiana, PA Area

Comment: EPA responded to the Commonwealth's designation recommendations, agreeing with all of Pennsylvania's original designation recommendations, but also including a portion of Armstrong County as part of a nonattainment area. After consideration of EPA's intention to add a portion of Armstrong County, and after further analysis, the state recommends that EPA remove the intended partial designation of Armstrong County for the reasons outlined in Pennsylvania's revised recommendation letter, which can be found in the federal docket system.

EPA's Response: EPA agrees with the Commonwealth regarding the inclusion of all of Indiana County in the nonattainment area. However, EPA does not concur with removing the portions of Armstrong County that were in the proposed nonattainment area. EPA reviewed the additional information provided by the Commonwealth but did not find it sufficient to justify removing the portions of Armstrong county from the nonattainment area. Additional information and analysis regarding this area is contained in the PA TSD that accompanies this action in the section of the TSD that discusses the Indiana PA Nonattainment Area.

3.2.3.5. Warren, PA Area

Comment: Reduce the Warren County nonattainment area to four municipalities: Conewago, Glade and Pleasant Townships and the City of Warren. The reason for the recommended modification of the Warren County nonattainment area is outlined in Pennsylvania's revised recommendation letter, which can be found in the federal docket system.

EPA's Response: EPA reviewed the information provided by the Commonwealth and concurs that the initial Warren PA Nonattainment Area should be reduced from the original proposal of the entire county to a partial county consisting of the municipalities identified by the Commonwealth of Pennsylvania. Currently excluded areas will be designated in a future round of final designations. Additional information and analysis regarding this area is contained in the PA TSD that accompanies this action in the section of the TSD that discusses the Warren PA Nonattainment Area.

3.2.4. EPA Region 4

3.2.4.1. Campbell-Clermont Counties, KY-OH Area

Comments regarding this area are addressed in section 3.2.9.1

3.2.4.2. Nassau County, FL Area

Comment: One commenter believes the proposed nonattainment designation is not appropriate because the commenter believes that the data used to make the determination is not representative of ambient concentrations of SO₂. As described below, there are technical problems with the location of the ambient monitoring station and the data validation process. At this time Nassau County should be designated as "unclassifiable" and a more suitable monitoring station should be selected for determination of the county's attainment status.

Specifically, the commenter expresses concerns that SO₂ emissions from a nearby wastewater treatment plant and diesel emissions from truck traffic on an adjacent driveway impact the Nassau County monitoring site operated by the State of Florida, and that it is not representative of ambient air. The commenter also comments that the data from the Nassau County monitor should not be considered valid because the data from a nearby monitor operated by Rayonier "differ substantially" from the Nassau County monitor data.

EPA's Response: EPA disagrees with the commenter. The State of Florida submitted recommendations for SO₂ designations which included certified data from an approved monitoring plan for the Nassau County area. In addition, the State performed air quality modeling for that area to support its recommended nonattainment boundary. In our February 6, 2013, letter to the State, EPA did not propose to modify Florida's recommended boundary, and agreed with the State's technical analysis for the area.

Regarding the suitability of Florida's SO₂ monitoring station in Nassau County, FL, EPA disagrees with the commenter that the Nassau County monitoring data should be considered invalid. The State of Florida has operated the monitor in accordance with all of the requirements of 40 CFR Part 58, and has certified to EPA that the data is accurate and complete. After reviewing the nearby sources, EPA believes that the wastewater treatment plant and nearby truck traffic are not significant sources of SO₂ emissions, and that the monitor is properly sited and is representative of ambient air. EPA also does not agree that the data discrepancies observed between Rayonier's SO₂ monitoring site and Florida's SO₂ monitoring site should invalidate Florida's monitoring data. Since the Rayonier monitoring data was not collected using an EPA approved Quality Assurance Project Plan, the data do not meet the quality assurance requirements of 40 CFR Part 58.

Therefore, based upon the above discussion, EPA believes that the appropriate response is to agree with the State's recommendation and initially designate a portion of Nassau County, FL as nonattainment. We will designate currently excluded areas in a future round of final designations. See EPA's TSD for this area for more rationale on why the nonattainment area designation is appropriate for this area.

3.2.4.3. Sullivan County, TN Area

Comment: The TSD defines a portion of Sullivan County which consists of a 4.3 kilometer radius circle centered on a point within the Eastman Chemical Company facility. The TSD states that this circle encompasses the Eastman facility as well as the one violating monitor in the County. The TSD also states that this boundary encompasses two local SO₂ sources, AFG Industries and Domtar Paper Company. In fact, it appears the location of the Domtar facility governs the size (4.3 kilometer radius circle) of the proposed boundary. Table 3 in the TSD lists AFG as emitting 49 tons per year of SO₂ and Domtar emitting 892 tons per year, based on the 2008 National Emissions Inventory. It is Eastman's understanding that the AFG facility has ceased operation and that the Domtar facility does not emit SO₂. The commenter's review of the 2008 NEI found on EPA's website showed no SO₂ emissions from the Domtar facility. Given that inclusion of these facilities results in a larger non-attainment area, Eastman requests the boundary be re-defined to be centered on Eastman's predominant sources of SO₂ (coal-fired powerhouses) and have a radius large enough to encompass the violating monitor. This would result in an area defined by a circle having its center at the B-253 power house coordinates 36.5186 N; 82.5350 W and having a 3-kilometer radius.

The Commenter contends that this boundary will ensure that the only significant source of SO₂ emissions (Eastman) in the vicinity is evaluated for control measures that can be included in an attainment demonstration for the area and that the plan will ensure that the air quality at the location of the violating monitor (Ross N Robinson) as well as the other long-term monitor in the area (Meadowview) is predicted to meet the NAAQS. Note that the requested boundary encompasses both monitors mentioned above.

EPA's Response: EPA has evaluated this additional information and considered it for the final determination for the initial boundary for this area. Based on this information

and a revised recommendation from the State of Tennessee (which is consistent with Eastman's recommendation), EPA has revised the boundary for the final initial nonattainment area for Sullivan County. EPA will designate currently excluded areas in a future round of final designations. Please see the TSD for the Sullivan County, TN Area for the updated boundary.

3.2.5. EPA Region 5

3.2.5.1. Lemont, IL Area

Comment: Citizens Against Ruining the Environment (CARE) and the Respiratory Health Association (RHA) generally support the preliminary determinations regarding Illinois regions that do not attain the 2010 SO₂ NAAQS based on monitored air quality data. Because of the number of human receptors, there is an urgent public health justification for IL EPA and U.S. EPA to plan for and achieve attainment as soon as possible, without waiting until 2017.

EPA's Response: EPA appreciates the support from CARE and RHA for promulgating nonattainment designations for the Lemont and Pekin areas. While the attainment date is not directly addressed in this rulemaking regarding designations, the promulgation of nonattainment designations will trigger nonattainment planning requirements that will require Illinois to develop a plan to achieve attainment as expeditiously as practicable but no later than five years after the area becomes designated nonattainment.

Comment: Specifically as to the Lemont non-attainment area, CARE and RHA assert this non-attainment area includes at least the three Townships in the Illinois recommendation and the U.S. EPA response. CARE and RHA also concur that the stationary sources of air emissions contributing to this non-attainment include at least the Will County coal-fired power plant, the Citgo Refinery and Oxbow Calcining, all of which are in an industrial corridor immediately to the west and southwest of the Lemont monitor.

EPA's Response: EPA appreciates this support for the proposed nonattainment area boundaries.

Comment: Oxbow Calcining is the closest SO₂ source to the Lemont monitor. Both IL and U.S. EPA assert Oxbow Calcining causes and contribute to non-attainment with the 2010 SO₂ NAAQS. Yet, there is no federally enforceable annual SO₂ emission limit in the Oxbow air permit.

EPA's Response: At issue here is what area is violating or contributing to violations at the Lemont monitor, and this comment implicitly supports EPA's proposal to include Oxbow Calcining in the nonattainment. The designation of nonattainment areas triggers nonattainment planning requirements, and comments regarding the presence or absence of acceptable emission limits are more germane to the process of Illinois developing its nonattainment plan and EPA rulemaking on that plan.

Comment: In characterizing the sources that cause or contribute to non-attainment in the Lemont area, both U.S. EPA and IL EPA focus on three contiguous sources in an industrial corridor to the west and southwest of the Lemont monitor. However, there is a fourth facility in this same corridor, the Seneca Petroleum facility, that was not referenced in this source assessment.

EPA's Response: According to the 2008 NEI, the Seneca Petroleum facility either does not exist or emits less than 100 tons per year. In any case, this facility is within the nonattainment area that EPA is promulgating, based on the contributions of other nearby facilities, irrespective of the emission level of this facility.

Comment: Midwest Generation ("MWG") operates coal-fired power plants in the Lemont non-attainment area (the Will County facility) and the Pekin non-attainment area (the Powerton facility). These facilities are identified by IL EPA and U.S. EPA as being major sources that cause and contribute to SO₂ non-attainment in the Lemont and Pekin areas. Midwest Generation also operates a coal-fired power plant in Joliet, immediately to the south of the Lemont non-attainment area, which today is a significantly larger SO₂ source than its Will County counterpart. Today, none of these coal-burning facilities employ flue gas desulfurization pollution control equipment. None of the facilities has (or ever had) a Title 5/CAAPP operating permit; in fact, the last effective operating permits for these facilities were issued by Illinois in the mid-1990's as federally enforceable state operating permits. All of these facilities are subject to an enforcement case initiated by the United States of America and the State of Illinois for undertaking major modifications without undergoing new source review (United States of America and the State of Illinois and Citizens Against Ruining the Environment v. Midwest Generation, LLC, Edison Mission Energy and Commonwealth Edison Company, No. 09-5277, United States District Court, Northern District of Illinois, Eastern Division; CARE is a Plaintiff-Intervener in this case).

EPA's Response: Again, comments regarding the presence or absence of acceptable emission limits are more germane to the process of Illinois developing its nonattainment plan and EPA rulemaking on that plan.

Comment: Joliet, with a population of 148,402, is downwind of two large SO₂ sources – Midwest Generation's Joliet plant and the Exxon-Mobil refinery – that Illinois discounted as contributing to the monitored NAAQS exceedances in Lemont, but which RHA and CARE assert must be included in any credible analysis of regional SO₂ ambient air conditions and contributing sources.

CARE and RHA question whether the boundaries of the Lemont nonattainment area are expansive enough, and whether there are other stationary sources that are significantly contributing to nonattainment. To ensure that the nonattainment area is being accurately defined, CARE and RHA assert that an additional monitor should be installed to assess ambient air conditions to the south of the existing boundary of the proposed nonattainment area.

CARE and RHA also submitted information developed by Sierra Club in support of a filing before the Illinois Pollution Control Board against Midwest Generation. This information includes modeling conducted by Sierra Club based on allowable emissions from Midwest Generation's Joliet plant, indicating a violation east southeast of the facility. CARE and RHA state that Sierra Club used modeling to assess the impact of the Joliet plant in the absence of monitoring data that precisely delineates conditions downwind. CARE and RHA then assert that there does not appear to be a basis for a southern boundary of the Lemont area that neatly excises the contributions of the Joliet facility and excludes Joliet from the nonattainment area.

EPA's Response: The comments from CARE and RHA provide no information on impacts of the Midwest Generation's Joliet plant on the violation recorded in Lemont. The attached material from Sierra Club references maps showing a distribution of impacts of the Joliet plant, but these maps were not included in CARE and RHA's comments. The only location specifically addressed in these comments is east southeast of the facility, which is a significant distance from Lemont. Furthermore, no analysis is provided to indicate that high impacts at the Lemont monitor from the Joliet facility are occurring at a time when the Lemont monitor is recording high concentrations of SO₂. CARE and RHA's comments also do not provide evidence that the Exxon Mobil refinery contributes to violations at the Lemont monitor. To the contrary, pollution rose information provided with Illinois' recommendations indicates that violations predominantly occur with west winds. Since these two facilities are considerable distance from the Lemont monitor, and since CARE and RHA have provided no evidence that these facilities contribute to the violations recorded at the Lemont monitor, EPA continues to believe that the proposed nonattainment area boundaries appropriately exclude these two facilities.

The comments of CARE and RHA suggest that EPA take one of three options: 1) designate a larger nonattainment area that includes the area of violation and contributing sources both in Lemont and in Joliet, 2) designate the Joliet area as well as the Lemont areas as separate nonattainment areas, or 3) designate the Lemont area as nonattainment and require further monitoring to assess whether the Joliet area is violating the standard. For reasons given above, EPA believes that the proposed Lemont nonattainment area boundaries are the appropriate boundaries for this area. EPA is not currently acting on other areas such as the Joliet area. EPA has posted a strategy paper on the internet that envisions requiring further analysis of areas like the Joliet area, as CARE and RHA suggest. However, action on the Joliet area is not part of this rulemaking, which in Northeast Illinois addresses only the Lemont area.

Comment: RHA and CARE request clarification on the construction permit standards that will be imposed on a new SO₂ source in the newly designated nonattainment areas (which would also apply to major modifications to existing sources).

RHA and CARE also request SO₂ emissions information provided by the Citgo Refinery, which is operating subject to a federal Consent Decree. It appears that Citgo's SO₂

emissions have been reduced exponentially. Can U.S. EPA characterize Citgo's SO₂ emissions over the past five years, and confirm this significant downward trend?

EPA's Response: These comments are not germane to this rulemaking on designations. Nonattainment planning requirements will be addressed separately. Illinois will evaluate emissions from the Citgo Refinery as part of its nonattainment planning process.

(See also a comment and response presented below concerning both the Lemont and Pekin areas.)

Comment: The ExxonMobil Joliet Refinery supports the EPA's concurrence with the Illinois EPA's recommendation that Will County be divided, and to ask that all townships, other than Lockport, and DuPage townships be designated as attainment or unclassifiable as they do not have a significant impact on the Cook County S01 monitor AQS ID # 17-031-1601 located at 729 Houston, Lemont, which is located in Cook County just across the Will County boundary.

EPA's Response: EPA appreciates ExxonMobil's support of the Lemont nonattainment area. However, no action is being taken on the remainder of Will Country in this rule making, so the remainder of Will Country will not receive an attainment or unclassifiable designation.

3.2.5.2. Pekin, IL Area

Comment: Both the Illinois Environmental Regulatory Group (IERG) and Ameren submitted comments urging EPA to exclude Hollis Township from the nonattainment area based on low frequency of winds coming from that direction, particularly during hours of violating when SO₂ concentrations exceeded the standard. IERG states that the meteorology analysis submitted by IEPA is not supportive of the inclusion of this area. They provided two composite photos, one of a wind rose from IEPA layered on a map from IEPA of the area showing the locations of the facilities and the other of a pollution rose from IEPA layered on that same map. IERG agrees with IEPA's assessment that sources to the west and southwest most likely contribute to the exceedance. IERG compared wind direction to hours of SO₂ exceedances from 2007 to 2011 and provided percentages of the wind direction during exceedances. They found that the wind direction was variable 3.7% of the time, from the NW 0.4%, and not from the other northerly directions.

Ameren stated that their E.D. Edwards facility is almost directly north of the monitor and that wind from the north accounts for less than 5% of the total wind direction occurrences and therefore the probability of the facility causing an exceedance is low. Ameren also states that 99% of the violating SO₂ values at that monitor occurred when winds were from the South –Southwest to West-Northwest with the majority from the West and West-Southwest. Ameren stated that the wind speeds were usually greater than 10 mph during exceedances, which points to the facilities with short stack heights in the west. Ameren believes that emission levels are not the only factor to be considered, and EPA

should look at the meteorology of a monitor and the actual locations of facilities, stack heights, stack flow and temperature, and other relevant operating characteristics of the facilities. Ameren also provided a pollution rose in graph form and a table of hourly SO₂ exceedance from 2008-2010 with the associated wind direction and speed.

EPA's Response: EPA believes that winds come from the direction of E.D. Edwards with sufficient frequency that the substantial emissions of this facility warrant being considered to contribute to the violation in Pekin. Ameren states that the winds from the north account for less than 5 percent of the total wind occurrences. An even distribution of winds among 16 wind directions would mean about 6 percent of the winds from each direction, so this does not signify particularly low frequency. As shown in IEPA's initial recommendation, of the sixteen wind directions, eleven of the directions occur 3 to 6% of the time. Four of the directions occur 6 to 9% of the time with the most frequent southerly direction occurring less than 15% of the time. Thus, winds coming from the direction of E.D. Edwards plant toward the Pekin monitor occur with sufficient frequency that the facility has significant potential to contribute to the monitored violations. Most of IERG's and Ameren's comments focus on winds during hours when SO₂ concentrations at the Pekin monitor exceeded the level of the standard. EPA agrees that the winds for the Pekin Nonattainment area are most frequently from the south and west wind directions during times of exceedances. However, this statement does not answer the question of whether winds from the direction of the E.D. Edwards plant occur with sufficient frequency to conclude that the plant contributes to the violation.

In response to IERG's and Ameren's presentation of average wind directions during hours of SO₂ exceedances for 2008 to 2010, EPA conducted a similar review. EPA examined the average of two-minute wind direction samples instead of an hourly sample to better evaluate variable winds. From this review, EPA identified numerous occasions when exceedances occurred during times with generally northerly winds. For example, EPA found that on May 9, 2010 at 14:00, the SO₂ value was monitored at 97 ppb with an hourly average wind direction of 343 degrees (NNW) with a wind speed of 4 mph. The facility likely cause the greatest impact from this direction is the Ameren E.D. Edwards facility. Another example was an exceedance of 109 ppb on April 21, 2010 at 15:00, when the wind was blowing at 5 mph at 317 degrees. This exceedance, with northwest winds, suggests significant contributions from either or both of the facilities in that direction, i.e., either or both of E.D. Edwards and the Aventine Renewable Energy facility in Pekin Township.

Wind data supplied by Ameren showed an exceedance on January 17, 2010 of 89 ppb. The wind direction is shown to vary during this hour from 10 to 40 degrees, which suggests a significant contribution to the exceedance from the Ameren E.D. Edwards facility. Ameren's data also show several instances of variable wind direction and calm winds with exceedances associated with the time period. With calm winds, significant contributions are likely to arise from nearby facilities with significant emissions in several directions from the monitor, including in particular in the direction from which the E.D. Edwards plant would contribute.

When winds are variable, a proper analysis often requires assessing the variety of wind directions observed during the pertinent period. For example, on April 9, 2009, an exceedance of 119 ppb was recorded starting at 10:00. The hourly wind data showed the average wind direction to be 233 degrees. However, in looking at just a twenty minute period of the actual two minute rolling averages, from 10:35 to 10:55, the wind direction shifted quite frequently, as seen in the table below:

Local Time	Wind Direction (Degrees)
10:35	347
10:36	354
10:37	325
10:38	255
10:39	229
10:40	239
10:41	237
10:42	238
10:43	244
10:44	204
10:45	168
10:46	155
10:47	155
10:48	161
10:49	108
10:50	27
10:51	351
10:52	348
10:53	341
10:54	343
10:55	2

Several of these data points are in the northerly direction of the facility, suggesting that the E.D. Edwards facility was contributing to the exceedance during several portions of the hour.

These two minute data are two minute averages of wind direction and speed that are rolling every minute, meaning there are 60 two minute averages every hour. These data show a more accurate picture of the wind patterns during a recorded hour. The data allow for the change of wind direction during the hour to be observed instead of basing the entire hour on one average or one reading. The table below shows that looking beyond a single wind direction reading shows several additional instances of possible contribution to the exceedances from the direction of the Ameren facility. The table below looks at the two minute data during hours of exceedance. The number of occurrences is the number of rolling two minute data during the hour that were between 315 (Northwest) and 11 (North by East), which were used to indicate potential for significant contribution from the E.D. Edwards facility. The total possible number of occurrences during an hour is 60 due to the average rolling every minute.

Date	Hour	Number of Occurrences	Exceedance Value
4/9/2009	10:00-11:00	8	78
5/31/2009	11:00-12:00	5	144
5/31/2009	12:00-13:00	14	112
6/9/2009	12:00-13:00	4	137
6/9/2009	13:00-14:00	3	83
7/15/2009	12:00-13:00	1	84
7/31/2009	9:00-10:00	5	76
10/4/2009	14:00-15:00	3	98
1/17/2010	1:00-2:00	7	89
4/21/2010	15:00-16:00	25	109
5/9/2010	12:00-13:00	9	104
5/9/2010	14:00-15:00	39	97
10/1/2010	13:00-14:00	15	97
3/21/2011	12:00-13:00	9	126
5/7/2011	13:00-14:00	1	76
8/8/2011	17:00-18:00	24	95
9/25/2011	13:00-14:00	5	104

On each of these occasions, the E.D. Edwards facility was likely contributing to the exceedance during at least some portion of the hour.

This review suggests that, in addition to winds in the direction from the E.D. Edwards facility toward the Pekin monitor being common in general, winds in this direction also occur periodically on occasions when the Pekin monitor shows SO₂ concentrations to exceed the standard. Furthermore, winds in this area are frequently variable, such that a significant fraction of the contribution to exceedances could be arising from the E.D. Edwards facility on these occasions as well. Given the quantity of emissions from this facility (approximately 11,000 tons per year), EPA believes that winds blow from this facility toward the Pekin monitor with sufficient frequency, including specifically on days with high monitored concentrations, to warrant this facility being considered to contribute to violations at the monitor.

Comment: Midwest Generation ("MWG") operates coal-fired power plants in the Lemont non-attainment area (the Will County facility) and the Pekin non-attainment area (the Powerton facility). These facilities are identified by IL EPA and U.S. EPA as being major sources that cause and contribute to SO₂ non-attainment in the Lemont and Pekin areas. Midwest Generation also operates a coal-fired power plant in Joliet, immediately to the south of the Lemont non-attainment area, which today is a significantly larger SO₂ source than its Will County counterpart. Today, none of these coal-burning facilities employ flue gas desulfurization pollution control equipment. None of the facilities has (or ever had) a Title 5/CAAPP operating permit; in fact, the last effective operating permits

for these facilities were issued by Illinois in the mid-1990's as federally enforceable state operating permits. All of these facilities are subject to an enforcement case initiated by the United States of America and the State of Illinois for undertaking major modifications without undergoing new source review (United States of America and the State of Illinois and Citizens Against Ruining the Environment v. Midwest Generation, LLC, Edison Mission Energy and Commonwealth Edison Company, No. 09-5277, United States District Court, Northern District of Illinois, Eastern Division; CARE is a Plaintiff-Intervener in this case).

EPA's Response: This information supports the proposed nonattainment area boundaries. Illinois will need to consider the need for further control of these facilities as it prepares its nonattainment area plans.

3.2.5.3 Detroit, MI Area

Comment: U. S. Steel requested that USEPA include the portions of Monroe County that include the DTE Monroe Station in the Detroit nonattainment area. U.S. Steel observed that this power plant is a significant source of SO₂. U.S. Steel observed that before 2009, this plant was the “second largest coal-fired power plant in the nation.” U.S. Steel asserted further that air quality improvements following installation of scrubbers on two of the four units in 2009 “suggest a strong correlation between [emissions at Monroe Station and Detroit air quality].” U.S. Steel quoted EPA’s rationale for excluding Monroe Station from the nonattainment area, and objects that “the data support a finding that if similar controls were installed on the two remaining units, . . . then the [violating monitor] would most likely demonstrate attainment.”

U.S. Steel submitted a presentation prepared by Mike Lebeis of DTE Energy. This presentation describes a review of the seasonal frequency of elevated SO₂ concentrations at the critical monitor in Detroit (at the Southwest High School, or SWHS) and notes significant changes in SO₂ emissions in Southeast Michigan during the study period, in particular the installation of scrubbers on Units 3 and 4 in November and June 2009, respectively, and the temporary shutdown of the Detroit area U.S. Steel facility from November 2008 to August 2009. The presentation highlights the fact that only seven occasions of concentrations above 75 ppb occurred in 2009, during none of which was U.S. Steel operating. The presentation includes a slide entitled “Summary Findings – Hypothesis” which speculates that high SO₂ concentrations arise from a combination of impacts from regional sources and local sources, but no analyses are presented that assess the relative impacts of regional versus local sources. Nevertheless, U.S. Steel characterizes the presentation as “clearly [suggesting] that that both regional SO₂ sources and local SO₂ sources are the reasons for elevated SO₂ readings at the SWHS monitor. Furthermore, the analysis indicates that since 2010, there has been a noticeable drop in the number of hours per year that SO₂ exceeds 75 ppb at the SHWS monitor.” According to the Lebeis presentation, this would suggest that the lower readings at the SWHS monitor are attributable at least in part to the improvements at the Monroe Power Plant. This presentation also states that in 2009, the only hours when the NAAQS was exceed at

SWHS occurred in the Spring when US Steel operations were curtailed, suggesting that U.S. Steel, a local source, does not significantly impact the SWHS monitor. For these reasons, U. S. Steel encouraged USEPA and MDEQ to include portions of Monroe County to include Monroe Station, a large SO₂ source located upwind of the SWHS monitor, as part of the "Wayne County" nonattainment area.

EPA's Response: Neither in its comments nor in its attached presentation did U.S. Steel provide any analysis of the impacts of Monroe Station in relation to the impacts of other sources that are closer to the monitor. Instead, the evidence U.S. Steel presents must be considered anecdotal, reflecting the frequency of elevated SO₂ concentrations in conjunction with information about variations in emission rates. The presentation itself attributes the relatively low number of exceedances of 75 ppb recorded in 2009 to the relatively cool temperatures recorded that year. Indeed, the variations in the frequency of exceedances in other years may simply reflect variations in meteorology. Other data in the Lebeis presentation, namely the fact that few exceedances occur when U.S. Steel is shutdown and more exceedances occur when U.S. Steel is operating, suggest support for a conclusion that U.S. Steel is a significant contributor to the exceedances, but the influence of meteorological variations is too important to be able to use these statistics to reach either this or U.S. Steel's conclusion.

The Lebeis presentation reports that 2010 has the greatest number of exceedances of the 75 ppb standard, with moderately low numbers of exceedances occurring in 2011 and 2012. U.S. Steel asserts that the low numbers of exceedances in 2011 and 2012 reflect the impact of controls at Monroe Station, but U.S. Steel offers no explanation as to why the high number of exceedances in 2010, which also came after the implementation of controls at two units of Monroe Station, should not be considered evidence that these controls had no impact on concentrations at SWHS. Indeed, considering the high frequency of exceedances in 2010 according to U.S. Steel's reasoning, one would infer that the emission reductions at Monroe Station have minimal effect and the resumption of emissions at U.S. Steel has significant effect, a conclusion that is diametrically the opposite of U.S. Steel's conclusion from examining 2011 and 2012 data. EPA finds a more plausible conclusion to be that U.S. Steel's comments, and the Lebeis presentation that they rely on, are simply unreliable evidence as to the contribution of Monroe Station. EPA agrees that south winds are common on days with elevated concentrations at the SWHS monitor. However, EPA must evaluate further whether Monroe Station, located approximately 54 kilometers from the monitor, should be considered to be a nearby source that contributes to the violations recorded at the monitor.

U.S. Steel conceded that Monroe Station would not be considered a source that is "local" to the SWHS monitor. Under Clean Air Act section 107, nonattainment areas, in addition to including the areas violating the standard, are to include the nearby sources that contribute to the violation. U.S. Steel does not address criteria for judging a source to be nearby, but U.S. Steel implicitly concedes that Monroe Station could reasonably be considered not to be nearby the SWHS monitor.

U.S. Steel also does not address the significance of the data showing monitored design values below the SO₂ standard at the Allen Park monitor, a monitor which is somewhat to the southwest of the SWHS monitor, closer to Monroe Station. While these data do not answer the question of whether Monroe Station contributes to concentrations at either location, these data do indicate that most of the SO₂ monitored at the SWHS monitor is being contributed from more local sources. Based on the analysis described in the TSD, EPA continues to believe that Monroe Station is not a nearby source that contributes to the violation at the SWHS monitor.

3.2.5.4 Terre Haute, IN Area

Comment: Indiana agrees with the inclusion of Fayette Township in the Terre Haute nonattainment area, but disagrees with the inclusion of Otter Creek Township because the population for that township is low and there are no sources of SO₂.

EPA's Response: See Terre Haute, IN portion of the Indiana TSD.

3.2.5.5 Richmond, IN Area

Comment: Indiana submitted a recommendation that Wayne County, IN should be excluded from this round of designations because the monitor in Wayne County has certified, quality assured data showing that it is not violation the 2010 SO₂ Standard based on the 2010-2012 design period with a design value of 66 ppb.

EPA's Response: Because there are no monitored violations for the Richmond, Indiana area, no action is currently being taken on this area.

3.2.5.6 Oneida County, WI Area

Comment: EPA proposed one SO₂ nonattainment area for the State of Wisconsin. This is the area that was initially recommended in a letter to EPA Region 5 on May 26, 2011. On January 23, 2013, however, the source responsible for the elevated SO₂ concentrations submitted an application with the WDNR to install a natural gas boiler at their facility. Given this development, EPA should delay finalization of the one nonattainment designation in Wisconsin at this time. This is the major source of SO₂ in the area and the WDNR believes the area will achieve attainment when the source reduces its emissions. Consequently, attainment status should be granted once the cause of the nonattainment is removed or reduced.

Regardless of the U.S. EPA's action regarding finalization of the nonattainment designation, the remainder of Oneida County should be designated attainment. U.S. EPA should also designate other areas in Wisconsin attainment now, based on emissions and monitoring data.

EPA's Response: EPA is currently acting on designations for areas currently monitoring violations of the SO₂ NAAQS. See the Wisconsin TSD for further discussion of this comment.

3.2.5.7 Marshall, WV Area (previously called Wheeling, WV-OH)

Comments regarding this area are addressed in section 3.2.9.3

3.2.6. EPA Region 6

3.2.6.1 St. Barnard Parish, LA

Comment: One commenter described the communities around the plants and refineries in St. Bernard Parish as under-served and over-burdened with rising sulfur levels, and generally expresses support for a nonattainment designation for St. Bernard Parish.

EPA's Response: EPA acknowledges the commenter's support for a nonattainment designation for St. Bernard Parish.

Comment: One commenter believes that the rising sulfur levels in St. Bernard Parish are a result of the pollution allowed by Title V air permits issued to stationary sources, emissions from plants and refineries that have been "grandfathered," and from unpermitted sulfur emissions. The commenter also states that expansions, modifications, and variance exemptions that have been approved by the Louisiana Department of Environmental Quality (LDEQ) for the Rain CII facility and other plants and refineries without appropriate review or without providing public notice have also resulted in increased pollution and unacceptable and unhealthy air quality.

EPA's Response: EPA agrees with the commenter that stationary sources in the area appear to be responsible for much of the elevated SO₂ levels in St. Bernard Parish (see our TSD found in Docket ID No. EPA-HQ-OAR-2012-2033). The determination of whether it will be necessary to establish federally enforceable emission limits more stringent than those currently in place for stationary sources in the area to achieve attainment of the standard in St. Bernard Parish will be made through the nonattainment State Implementation Plan (SIP) process. The requirement to develop a nonattainment SIP is triggered by the nonattainment designation. The nonattainment SIP, itself, is outside the scope of the designations process. LDEQ will have to develop this SIP in accordance with CAA sections 172 and 191-192, adopting the necessary controls so that the area will attain the standard as expeditiously as practicable, but no later than the statutory attainment date. Under the CAA, the State must provide the public the opportunity to comment on the plan revision and the State must respond to those comments before adopting the SIP and submitting it to EPA for approval.

While we acknowledge the commenter's concern with the potential increase in SO₂ emissions resulting from previously approved or proposed source modifications or expansions and previously approved variances, we note that this is also outside the scope

of the designations process. These permitted and potential permitted increases, however, are required to be evaluated by LDEQ and taken into account during the development of the nonattainment SIP. Specific permitting and variance concerns, however, should be raised directly to LDEQ on a permit by permit basis, during the public comment period for the proposed permit revision, as LDEQ's air permitting program has been approved by EPA into the Louisiana SIP. Concerns related to public participation with regard to proposed source modifications and variance requests should also be raised to LDEQ.

Comment: The commenter states that the SIP should address the potential increase in SO₂ emissions resulting from permit applications currently under administrative review, and from compliance with EPA's expected Tier 3 mandates and other future regulations. The commenter believes that modifications of sources in the area and new regulatory mandates expected in the near future should not cost the community what little good air is remaining.

EPA's Response: We acknowledge the commenter's concerns related to the impact of future construction and/or modifications of sources in the area. The federal Clean Air Act requires that the new nonattainment SIP include a nonattainment New Source Review permitting program that would apply in the St. Bernard Parish nonattainment area. All new major stationary sources and major modifications in the nonattainment area must offset their new emissions so there is no net increase in SO₂ emissions in St. Bernard Parish. However, evaluation of potential SO₂ emissions increases resulting from applications under the New Source Review permitting program is outside the scope of the designations process.

Furthermore, with respect to the commenter's concern with the potential impact of source compliance with future federal air pollution regulations, we note that this is also outside the scope of the designations process and the nonattainment SIP development process. If compliance with any existing or future federal regulations will cause increases of SO₂ in the future, the LDEQ must take these increases into consideration while developing the nonattainment SIP and adopt control measures as needed to attain the standard as expeditiously as practicable, but no later than the statutory attainment date. However, we note that before promulgating any new federal air pollution regulations, EPA develops technical, economic, and environmental analyses that are available for review and comment during a public notice and comment period of at least 30 days after a new federal regulation is proposed. This may provide an appropriate venue for the commenter to raise concerns regarding potential increases in SO₂ emissions resulting from compliance with those regulations.

Comment: One commenter believes that the communities in St. Bernard Parish should have an opportunity to attend public information sessions and provide input before any SIP decisions are made. The commenter believes that appropriate controls are necessary to maintain the balance between residential neighborhoods and heavy industrial land use. The commenter states that the SIP should: protect public health and safety in St. Bernard Parish by requiring all major sources to install technology that results in the lowest achievable emission rates; require emission reductions beyond what may already be

scheduled; require the operation of air monitors along the perimeter/fence-line of sources since monitored violations at fixed ambient air monitors can be dependent on wind direction; require the operation of current ambient air monitors beyond SIP and EPA consent decree timelines (in particular for the Valero Energy air monitor); and require operation of additional ambient air monitors (in particular along the west bank of the Mississippi River) where residents have reported experiencing adverse health effects when the wind blows opposite the Chalmette Vista monitor and carries emissions from sources in St. Bernard Parish to Orleans Parish. The commenter believes that other solutions at all major sources, docks, and terminals in St. Bernard Parish include more stringent pollution controls, meaningful enforcement and surveillance, a residents-based community benefits agreement with each industry, and the dedication of any penalties toward local projects that support public health, local jobs, and community resettlement.

EPA's Response: While issues related to the development of nonattainment SIPs for the 1-hour SO₂ NAAQS are outside the scope of the designations process, we note that CAA section 172(c) describes the general requirements for nonattainment SIPs. Nonattainment SIPs generally contain requirements such as (but not limited to): reasonably available control measures (including reductions in emissions from existing sources in the area) and provide for attainment of the NAAQS, enforceable emission limitations, and means or techniques as necessary or appropriate to provide for attainment of the 1-hour SO₂ standard. All new major sources and major modifications will be required to install technology that results in the lowest achievable emission rate. As the state air pollution control agency in Louisiana, LDEQ will have the responsibility to develop this SIP and submit it to EPA for approval. Federal regulations require states to provide reasonable notice and hold a public hearing on a draft SIP and respond to all public comments received before the SIP is submitted to EPA for approval. In addition, EPA provides public notice and an opportunity for public comment before finalizing its action to approve or disapprove a SIP. As such, we expect that the communities in St. Bernard Parish will have sufficient opportunity to provide input before EPA takes final action on the nonattainment SIP.

With respect to the commenter's monitoring concerns, the EPA requirements for the 1-hour SO₂ National Ambient Air Quality Standard revised on June 2, 2010, can be found at <http://www.epa.gov/airquality/sulfurdioxide/actions.html>. The final 1-hour SO₂ NAAQS rule requires a minimum of three SO₂ monitors for any Core-based Statistical Area (CBSA) with a calculated Population Weighted Emissions Index (PWEI) value equal to or greater than 1,000,000. A PWEI uses population and emissions inventory data at the CBSA level to assign required monitoring for a given CBSA, with population and emissions being obvious relevant factors in prioritizing numbers of required monitors. The final 1-hour SO₂ NAAQS rule also requires a minimum of two SO₂ monitors for any CBSA with a calculated PWEI value equal to or greater than 100,000, but less than 1,000,000. For any CBSA with a calculated PWEI value equal to or greater than 5,000, but less than 100,000, a minimum of one SO₂ monitor is required within that CBSA. In the final SO₂ NAAQS rule, EPA stated that the monitors required within these breakpoints would provide a reasonable minimum number of monitors in a CBSA that considers the combination of population and emissions that exist in a CBSA. Based on

the SO₂ monitoring network requirements in the final 1-hour SO₂ NAAQS rule, no additional SO₂ monitors are required on the west bank of the Mississippi River in Orleans Parish nor along the fence-line of stationary sources in St. Bernard Parish.

We note at this time, separate from the designations process, the EPA is evaluating the overall implementation strategy for the SO₂ standard, including evaluation of regulatory air monitoring requirements. Opportunities for additional public input will be available as necessary changes to existing rules, if any, and guidance are developed. Additional information on EPA's SO₂ implementation plans can be found at:

<http://www.epa.gov/oaqps001/sulfurdioxide/implement.html> and

<http://www.epa.gov/oaqps001/sulfurdioxide/pdfs/20130207SO2StrategyPaper.pdf>.

Furthermore, whenever a state's annual monitoring network plan proposes monitoring network modifications, a public comment opportunity is furnished by either the State or EPA.

As further explained in a separate response, the Valero air monitor the commenter references was required by a 2010 consent decree between the facility and EPA to settle CAA violations. This monitor is operated and maintained by the facility, and is not a regulatory air monitor. The requirements for operation of the Valero air monitor were established by the consent decree and because it is a non-regulatory monitor, the requirements for its operation are outside the scope of the designations processes.

Comment: The commenter expresses concern that the "SIP timeline of 2018" may be too late for St. Bernard Parish's residents who report having a negative quality of life and health effects as a result of flaring events.

EPA's Response: While issues related to the deadline for attainment are outside the scope of the designations process, the commenter appears to be referring to the statutory deadline for areas designated nonattainment for the 1-hour SO₂ NAAQS to attain the standard. CAA section 191(a) requires states to develop and submit nonattainment SIPs to EPA within 18 months of the effective date of an area's nonattainment designation, demonstrating that the affected area will attain the standard by the applicable statutory attainment date. Under CAA section 192(a), areas designated nonattainment with respect to the primary SO₂ NAAQS must attain the standard as expeditiously as practicable, but no later than 5 years from the date the area was designated nonattainment. We anticipate working with LDEQ in the development of the SIP to identify the most expeditious practicable attainment date and ensure this requirement is met.

Comment: The commenter expresses support for a nonattainment designation for St. Bernard Parish, noting that all three major sources in St. Bernard Parish contribute SO₂ emissions and both the "Chalmette Vista" and the "Valero" air monitors have multiple violations of the 1-hour SO₂ standard.

EPA's Response: EPA acknowledges the commenter's support for a nonattainment designation for St. Bernard Parish.

Comment: The commenter expresses support for a nonattainment designation for St. Bernard Parish, noting that the health of people in the community is being negatively affected by high concentrations of SO₂. The commenter believes that industry has caused a disaster that was avoidable, but it will now take a long time for the community to recover and the “label” of nonattainment will have a deterring effect on the community’s resettlement programs. The commenter states that both Valero Energy and ExxonMobil operate several other refineries in other areas using better control technology resulting in lower SO₂ emissions, and suggests that these companies should be required to make the same investment at their facilities in St. Bernard Parish.

EPA’s Response: EPA acknowledges the commenter’s support for a nonattainment designation for St. Bernard Parish. However, development of the nonattainment SIP and decisions on what control technology sources in the area must install are outside the scope of the designations process. LDEQ is responsible for developing a SIP that includes controls for sources in the area and contains an attainment demonstration showing St. Bernard Parish will attain the standard as expeditiously as practicable, but no later than the statutory attainment date.

Comment: The commenter states that control technology that would reduce emissions resulting from plant startup/shutdown due to planned maintenance, unplanned malfunctions, and hurricane and other weather related events is available and should be required for sources in the area. The commenter states that in August 2012 in preparation for Hurricane Isaac, the ExxonMobil Chalmette plant and the Valero Energy Meraux plant had planned shutdowns and reported emitting over 46 tons of SO₂ and 1,102 pounds of SO₂ (respectively) from startup and shutdown procedures. The commenter adds that while hurricane related events may result in a violation of the 1-hour SO₂ NAAQS, this goes undocumented because monitoring sites are taken down during hurricanes for safety reasons. The commenter believes that industry in St. Bernard Parish should plan ahead and be properly equipped for weather related events.

EPA’s Response: We acknowledge the commenter’s concern with emissions resulting from startup, shutdown, and malfunction; however, we note that the determination of what control technologies should be required for sources in the area is outside the scope of the designations process. As stated in a previous response, LDEQ in the SIP development process will determine which sources must install what pollution controls to meet applicable emission limits to attain the 1-hour SO₂ standard. We encourage the commenter to participate during the development of the SIP. Although out of the scope of the designations process, we also note that on February 22, 2013, EPA published a notice in the Federal Register proposing to take action on a petition for rulemaking filed by the Sierra Club on June 30, 2011 (see 78 FR 12460). The petition included interrelated requests concerning the treatment of excess emissions in 39 states’ existing SIP rules by stationary sources during periods of startup, shutdown, or malfunction. In that proposed rulemaking, EPA specifically proposed to determine that Louisiana’s existing SIP includes a number of provisions regarding the treatment of excess emissions during periods of startup, shutdown, and malfunction that are inconsistent with the CAA. The EPA also simultaneously proposed a SIP call which upon finalization would give

Louisiana 18 months to correct and submit its revised SIP to EPA. The EPA's February 22, 2013 proposed rule intends to ensure states have SIP provisions in place that require industrial facilities across the country to follow air pollution rules during times when the facility is starting up or shutting down, or when a malfunction occurs. More information on EPA's proposed SIP call on startup, shutdown, and malfunction can be found at: <http://www.epa.gov/airquality/urbanair/sipstatus/emissions.html>.

With regard to the commenter's concern with potential violations of the 1-hour SO₂ NAAQS that may go undetected during hurricane events when ambient air monitors are taken down, we note that taking down monitors is routine practice during hurricane events in order to prevent damage to expensive monitoring equipment. The monitors are only taken down temporarily and usually resume operations promptly following the hurricane event. We also note that during and following emergencies, EPA may deploy mobile air monitoring equipment to monitor and sample for substances that may be present in the environment. The decision whether to deploy these mobile air monitors is usually based on the emergency and determined on a case by case basis. Therefore, we expect that any major accidental releases of chemicals or emissions into the atmosphere that could potentially pose a serious threat to human health would not go undetected.

Comment: The commenter states that emergency flaring resulting from unplanned malfunctions and shutdowns can cause chronic and acute health risks and may violate the 1-hour SO₂ NAAQS. The commenter argues that the ExxonMobil Chalmette refinery and the Valero Energy Meraux refinery are major contributors to nonattainment in St. Bernard Parish, stating that both the Chalmette Vista and Valero monitoring sites have many violations of the 1-hour SO₂ NAAQS. The commenter states that the ExxonMobil Chalmette refinery in 2010 and 2011, and the Valero Energy Meraux refinery in 2011 and 2012, emitted more SO₂ emissions than what each is permitted to emit. The commenter also provides information on unplanned flaring events at both the ExxonMobil Chalmette refinery and the Valero Energy Meraux refinery, noting that there were monitored violations at the Chalmette Vista and the Valero monitoring sites during these events when the wind was blowing away from the sources and toward the monitors.

EPA's Response: We agree with the commenter that stationary sources in the area appear to be responsible for elevated SO₂ levels in St. Bernard Parish, as measured in particular at the Chalmette Vista monitor (see our Technical Support Document found in Docket ID No. EPA-HQ-OAR-2012-2033). In making our decision to designate St. Bernard Parish nonattainment, we considered the three most recent years of certified data from regulatory ambient air monitors, as well as certain other factors. However, in determining that the St. Bernard Parish area was in violation of the NAAQS for purposes of designations, we did not take into consideration any data from the Valero air monitor referenced by the commenter, as it is not a regulatory monitor. Although we believe the data from the Valero monitor is informational in many respects, the data does not meet the requirements in 40 CFR Part 58 Appendices A, C, and E. Because ambient air quality data used by the EPA for establishing violations of the NAAQS must meet the requirements in 40 CFR Part 58 Appendices A, C, and E, EPA cannot consider data from

the Valero monitor for purposes of establishing NAAQS violations for designation purposes.

Comment: The commenter states that the Chalmette Vista monitor, located north of ExxonMobil and Rain CII, demonstrates violations of the 1-hour SO₂ NAAQS and shows that both sources are major contributors to nonattainment. The commenter notes that LDEQ's 2011 designation recommendations to EPA were based on 2008-2010 air monitor data, and states that there have been no significant improvements in monitored SO₂ concentrations in 2011 and 2012 at the Chalmette Vista air monitor while there has been an increase in SO₂ concentrations at both the Meraux and Valero air monitors, with violations at the Valero air monitor.

EPA's Response: As can be seen in the analysis presented in our TSD, which can be found in Docket ID No. EPA-HQ-OAR-2012-2033, we agree with the commenter that Rain CII and ExxonMobil appear to contribute to the violations recorded at the Chalmette Vista monitor. EPA established the 1-hour SO₂ standard at a level of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. In making its designation decisions, EPA must consider the three most recent years of certified data from regulatory ambient air monitors, as well as certain other factors. Louisiana based its 2011 designation recommendations on 2008-2010 air monitoring data because at the time those were the three most recent years for which certified air monitoring data was available. Since certified 2011 air monitoring data became available by the time EPA proposed its designations in February 2013, EPA proposed and is now finalizing its SO₂ designation decision for St. Bernard Parish based on a violation of the NAAQS established by 2009-2011 data from regulatory air monitors. Although in recent years there has been some improvement in the monitored SO₂ concentrations at the Chalmette Vista monitor, we agree with the commenter that the monitor's 2009-2011 design value of 287 parts per billion (ppb) is significantly above the standard of 75 ppb.

Although EPA is designating St. Bernard Parish nonattainment, we note that in making that decision EPA did not take into consideration for purposes of establishing NAAQS violations any data from the Valero air monitor referenced by the commenter, as it is not a regulatory monitor. The Valero monitor is a community air monitoring station that was installed by the facility as part of a 2010 consent decree with EPA to settle CAA violations, and is operated and maintained by the facility. Although we believe the data from the Valero monitor is informational in many respects, the data does not meet the requirements in 40 CFR Part 58 Appendices A, C, and E. We discuss the Meraux air monitor in the next response.

Comment: The commenter states that air monitoring data for the years 2008-2012 at the Meraux air monitor demonstrate that recent plant modifications at the Valero Energy Meraux refinery have resulted in increased SO₂ concentrations. The commenter notes that the 2012 highest annual 1-hour SO₂ concentration of 59 ppb at the Meraux air monitor, as well as four consecutive 5-minute readings above 75 ppb, took place around the same time as the Valero Energy Meraux refinery reported flaring. The commenter notes that

there is a public health concern at the elementary school where the Meraux air monitor is located, as school children were exposed to these high SO₂ levels and studies have linked short-term exposure to adverse respiratory effects, especially when children are exercising or playing. The commenter contends that air monitoring data from the Meraux and Valero air monitors demonstrate that the Valero Energy Meraux refinery is the major contributor to violations of the 1-hour SO₂ NAAQS at both the Valero and Meraux air monitors as well as at the elementary school, that there is a need to implement long-term solutions, and that the Valero air monitor could potentially in the future demonstrate nonattainment if there are no further emissions reductions at the Valero Energy Meraux refinery.

EPA's Response: As stated in a previous response, EPA is basing its decision to designate St. Bernard Parish nonattainment on the three most recent years of certified data from regulatory air monitors in the area. As discussed in our Technical Support Document, we considered 2009-2011 data from the three regulatory monitors in the area: the Chalmette Vista, Chalmette High School, and Meraux monitors. Although we acknowledge the commenter's concerns regarding exceedances of the 1-hour SO₂ standard at the Meraux air monitor, out of the three monitors only the Chalmette Vista monitor is violating the 1-hour SO₂ standard based on 2009-2011 air monitoring data. The TSD explains in further detail what sources appear to be contributing to violations at the Chalmette Vista monitor. As stated in a previous response, as part of the SIP development process, LDEQ must determine which sources in the area must install what controls to attain the standard as expeditiously as practicable, but no later than the statutory attainment date. EPA anticipates working with LDEQ in this process.

With respect to the Valero air monitor, although we believe the data from the Valero monitor is informational in many respects, the data does not meet the requirements in 40 CFR Part 58 Appendices A, C, and E. Because ambient air quality data used by the EPA for establishing violations of the NAAQS must meet the requirements in 40 CFR Part 58 Appendices A, C, and E, EPA cannot consider data from the Valero monitor for purposes of establishing NAAQS violations for designation purposes.

Comment: The commenter states that high SO₂ levels were also monitored at LDEQ's former air monitoring sites, and provides information on the highest annual 1-hour SO₂ concentrations and 99th percentile data from specific years for these air monitors: the Mehle site (located in Arabi); the Algiers "Entergy" site (located in Orleans); the Chalmette High site (located in St. Bernard's only high school). The commenter states that high monitored SO₂ concentrations at the former Chalmette High site demonstrates that student health should be protected, while high monitored SO₂ concentrations at the former Algiers Entergy air monitor in Orleans Parish demonstrates the need for deploying monitors on the west bank of the Mississippi River.

EPA's Response: As explained in a previous response, current Federal air monitoring requirements do not require that an SO₂ monitor be located on the west bank of the Mississippi River in Orleans Parish.

However, we note that the EPA is separately evaluating implementation of the SO₂ standard, including evaluation of air monitoring requirements. Opportunities for additional public input will be available as necessary changes to existing rules, if any, and guidance are developed. Additional information on EPA's SO₂ implementation plans can be found at the following websites: Sulfur Dioxide Implementation - Programs and Requirements for Reducing Sulfur Dioxide

<http://www.epa.gov/oaqps001/sulfurdioxide/implement.html> and at Next Steps for Area Designations and Implementation of the Sulfur Dioxide National Ambient Air Quality Standard

<http://www.epa.gov/oaqps001/sulfurdioxide/pdfs/20130207SO2StrategyPaper.pdf>.

Furthermore, EPA conducts a comprehensive annual review to ensure that the state has a monitoring network in place that meets the technical requirements of 40 CFR Part 58 and its appendices. The public will be able find the public notice for LDEQ's Ambient Air Monitoring Network Plan by June 1, 2013, at

<http://www.deq.louisiana.gov/apps/pubNotice/default.asp>. Part 58 provides at a minimum a 30-day public inspection opportunity for every annual monitoring network plan presented by the States and local agencies that develop the plans; moreover, whenever a plan proposes network modifications, a public comment opportunity is furnished by either the State or EPA. We invite future public participation from this commenter and others when these opportunities are provided.

Comment: The commenter argues that Louisiana law prohibits LDEQ from issuing a permit that maintains a nuisance or a danger to public health and safety, and notes that air quality in St. Bernard is very poor sometimes. The commenter states that as the public trustee under the State Constitution, LDEQ has a duty to require state-of-the-art technology and additional monitoring to ensure that the air permit limits of the three major sources in the area are maintained.

EPA's Response: We acknowledge the commenter's concerns related to high monitored SO₂ concentrations in St. Bernard Parish, however, we note that LDEQ's duties under state statute are outside the scope of the designations process. A nonattainment designation triggers a federal requirement for LDEQ to develop a SIP that must adopt the necessary controls for the area to attain the standard as expeditiously as practicable, but no later than the statutory attainment date. We anticipate the SIP will result in improved air quality and will safeguard public health in St. Bernard Parish.

Comment: Two commenters state they are residents of St. Bernard Parish and express support for a nonattainment designation for the Parish. One commenter states that residences in the area are constantly exposed to SO₂ and H₂S emissions, with the resulting odors often forcing residents to shelter indoors and making outside ventilation not an option. The commenter states that pollutant emissions have caused damage both to people's health and to residences in the area. The commenter believes it is time for industry to address this issue.

EPA's Response: We acknowledge the commenters' support for a nonattainment designation for St. Bernard Parish. We also acknowledge the commenter's concern with

the impact high SO₂ concentrations have on the communities in the area. LDEQ is responsible for developing a SIP that includes controls for sources in the area and contains an attainment demonstration showing St. Bernard Parish will attain the standard by the statutory attainment date.

Comment: The commenter believes that when EPA mandates gasoline sulfur reduction, this may result in lower tailpipe emissions but it also results in high levels of sulfur emissions at centralized locations surrounding the refineries. The commenter argues that this places the burden on the communities surrounding the refineries. The commenter believes that before mandating gasoline sulfur reduction, EPA should require the latest pollution control technology that will provide the intended goal of sulfur emissions reductions.

EPA's Response: As stated in a previous response, issues related to the potential impact of source compliance with new federal air pollution regulations are outside the scope of the designations process. If compliance with the EPA gasoline sulfur reduction requirements results in higher levels of sulfur emissions at refineries in St. Bernard Parish, in the development of the nonattainment SIP the LDEQ must take these increases into consideration and ensure that the control measures in the SIP will put the Parish into attainment by the deadline. However, we note that before promulgating a new federal air pollution regulation, EPA develops technical, economic, and environmental analyses that are available for review and comment during the public notice and comment period of at least 30 days after a new federal regulation is proposed.

Comment: While the commenter agrees with the designation of St. Bernard Parish as nonattainment, the commenter disagrees with how EPA referred to that area as the "New Orleans Area." The commenter states that labeling the "New Orleans Area" as nonattainment without the inclusion of a specific political boundary or definition will cause confusion. The commenter asks EPA to either remove its label of St. Bernard Parish as the "New Orleans Area," or change the label to "New Orleans Metropolitan Statistical Area."

EPA's Response: EPA apologizes for any confusion, our reference to the "New Orleans Area" may have made with respect to designations, and we are clarifying that we are initially designating only St. Bernard Parish nonattainment. References to the "New Orleans Area" have been corrected accordingly.

3.2.6.2 General Comments on Texas

Comment: The commenter reinforces the 2012 recommendation for an attainment designation for ten counties and an unclassifiable designation for all remaining counties in Texas. The commenter believes that EPA should designate areas in Texas in accordance with Governor Rick Perry's 2012 recommendations. In support of this position, the commenter provides 2009-2011 design values and preliminary 2010-2012 design values for these ten counties, stating that the data demonstrate the design values continue to trend downward. The commenter also expresses appreciation for EPA's

willingness to work with states regarding implementation of the 1-hour SO₂ NAAQS and for the flexibility being provided on the implementation schedule for this NAAQS.

EPA's Response: EPA acknowledges the support the commenter expresses regarding our approach to developing an implementation strategy for the 1-hour SO₂ NAAQS. In proposing designations and making final designation decisions, EPA has taken into consideration the designation recommendations provided by the commenter. However, EPA is proceeding at this time with initially designating as nonattainment most areas in locations where existing monitoring data from 2009-2011 indicate violations of the 1-hour SO₂ standard. We are not yet prepared to issue final designations for other types of areas, and will designate them in future final designations actions. This includes areas in Texas and areas in other states where monitored air quality data from 2009-2011 does not show violations of the 1-hour SO₂ standard. The EPA expects to be able to proceed with designation actions in these areas once additional data are gathered. Additional information on EPA's still developing SO₂ implementation strategy can be found at the following websites: Sulfur Dioxide Implementation - Programs and Requirements for Reducing Sulfur Dioxide <http://www.epa.gov/oaqps001/sulfurdioxide/implement.html> and at Next Steps for Area Designations and Implementation of the Sulfur Dioxide National Ambient Air Quality Standard <http://www.epa.gov/oaqps001/sulfurdioxide/pdfs/20130207SO2StrategyPaper.pdf>.

3.2.7. EPA Region 7

3.2.7.1. Muscatine County Area

Comment: One commenter supports EPA's proposed designation of Muscatine County, Iowa as nonattainment for sulfur dioxide (SO₂), as described in the EPA Responses to State and Tribal 2010 SO₂ Designation Recommendations.

The commenter supports the designation of the entire county as nonattainment, rather than some subset of the county. In addition, the Council supports a consideration of a portion of Louisa County as nonattainment because an area of Louisa County is likely contributing to the violation of air quality standards in Muscatine County. The MidAmerican Louisa coal plant is located just south of Muscatine County in Louisa County. According to Iowa DNR, this coal plant emitted 7,075 tons of sulfur dioxide in 2010. It is likely necessary for EPA to designate as nonattainment the portion of Louisa County that includes this large source of sulfur dioxide emissions in the final nonattainment designation in order to ensure the NAAQS for Muscatine County is met in future years.

The Commenter urges EPA to designate a portion of Louisa County as in nonattainment for contributing to air quality violations in Muscatine County. There is a small section of Louisa County that is adjacent to and just south of Muscatine County that includes a large source of sulfur dioxide emissions. The source is MidAmerican Energy's Louisa Generating Station, located less than 2 miles from the Muscatine County boundary. In fact, a portion of the contiguous property associated with this coal plant, which stores dry coal ash, appears to be in Muscatine County. The Louisa Generating Station is a major

emitter of SO₂ emissions and contributes to Muscatine County's violation of the 2010 SO₂ NAAQS. Accordingly, the commenter recommends that the recommended nonattainment area boundary of Muscatine County be expanded as to include the portion of Louisa County with the Louisa Generating Station. The commenter indicates that while the Louisa Plant is primarily located outside Muscatine County, it still contributes to the poor air quality in Muscatine County. EPA's guidance on designations indicates that states should provide information showing that "violations are not occurring in nearby portions that are excluded from the recommended nonattainment area" and that "excluded portions do not contain emission sources that contribute to the monitored or modeled violation." Since the Louisa Generating Station is a major source of SO₂ emissions that contributes to Muscatine County's nonattainment, it would be inappropriate not to include it in a nonattainment designation.

EPA's Response: The EPA's proposal to include all of Muscatine County as the presumptive nonattainment area boundary was based on the EPA's determination that the Musser Park monitor was reporting nonattainment with the NAAQS. Following the EPA's proposal, IDNR performed a technical analysis supporting a revised nonattainment boundary and provided EPA this analysis as a comment to our proposal. EPA's proposed default nonattainment boundary did not include the Louisa Generating Station (LGS) in neighboring Louisa County; however IDNR's analysis included an evaluation of the LGS facility for its contribution at the violating monitor. The LGS facility is located south of the violating monitor, which is the general direction of the sources implicated by IDNR's wind rose analysis as causing or contributing to the violations detected at the Musser Park monitor. However, since EPA's February 2013 letter (our "120-day letter") to Iowa indicating that EPA planned to modify Iowa's 2011 recommendation did not address this source, we are not yet prepared to conclude in this final designation action that the emissions from the LGS facility contribute to the monitored violation or to other possible violations, and we will make final designations decisions for areas outside Muscatine County in a subsequent round of final designations. CAA section 107(d)(1)(B)(ii) requires that before issuing a final designation that includes a modification to a state's recommendation, EPA must give the state at least 120 days notice of such a modification. As we have not yet provided such notice to Iowa regarding the LGS facility, we cannot yet include the LGS source in this final designation action. In addition, the EPA is not yet reaching a conclusion concerning areas and sources that are not included in the initial Muscatine area nonattainment boundary, and will address final designations for these areas and their sources in the future.

Comment: If EPA chooses not to include the area of Louisa County that encompasses the Louisa Generating Station in its nonattainment designation, EPA must at the minimum require the state to include controls for the Louisa Generating Station in the State Implementation Plan (SIP). The Clean Air Act requires that nonattainment plan provisions must "provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from *existing sources in the area* as may be obtained through the adoption, at a minimum, of reasonably available control technology) and shall provide for attainment of the national primary ambient air quality standards." The Louisa Generating Station should qualify as one of

the “existing sources in the area” even though it is not directly in the designated nonattainment area. The previously cited section of the Clean Air Act refers to the general area that could affect air quality in the designated nonattainment area. If SIPs were only required to place controls solely on sources within the designated nonattainment area, the Clean Air Act would not specifically refer to “nonattainment area” later in the same section.

EPA's Response: The CAA allows states the discretion to implement specific control strategies that demonstrate attainment of the NAAQS in each nonattainment area. The EPA will review Iowa's future State Implementation Plan (SIP), submitted in response to the EPA's 2010 SO₂ Primary NAAQS initial boundary designation, and determine whether the SIP adequately demonstrates that the nonattainment area will attain the NAAQS in an expeditious manner, in accordance with Sections 110, 172 and 192 of the Clean Air Act and relevant guidance. The issue of the adequacy of the SIP for the initial Muscatine nonattainment area is not yet ripe, as the SIP has not yet been developed by Iowa or submitted to EPA for review for approval. The EPA also notes that areas not currently included in the initial Muscatine nonattainment area will be addressed in a subsequent round of designations, and Iowa will be responsible for the development of control strategies for those areas as necessary in future State Implementation Plans.

Comment: Commenters are “supportive of effective regulatory action, based on sound public health and scientific research aimed to clean our air... While the SO₂ readings are highest in neighborhoods surrounding the worst offenders of our air quality laws, air is not stagnant and moves to cover all citizens who reside in our county... Clean Air Muscatine (CLAM) therefore supports such designation and, and sees no viable alternative to a county-wide designation.”

EPA's Response: The EPA acknowledges the concerns of this commenter, but finds that the technical analysis performed by the IDNR that included an analysis of monitoring data, meteorological data, wind roses, proximity of sources to the violating monitor and the sources' magnitude of emissions supports a smaller initial nonattainment area boundary. This boundary includes the Muscatine County sources that EPA has sufficient information to conclude are impacting the Musser Park monitor. EPA is not yet reaching a conclusion concerning areas and sources not included in the initial nonattainment boundary, and will address these areas in a future final designations action.

Comment: Nonattainment boundary needs to include the area of Muscatine County that Mid American Corporation has proposed for the construction of a new nuclear power plant or natural gas power plant.

EPA's Response: The EPA bases its nonattainment boundary designations upon sources contributing to a violation of the NAAQS and not upon future sources of emissions. Additionally, following receipt of this comment, the Mid American Corporation voluntarily withdrew its permit request for a new Muscatine County, Iowa nuclear or natural gas power plant. Therefore, the comment is moot, and it is not necessary for EPA to further respond to it.

3.2.8. EPA Region 8

3.2.8.1. General Comments

Comment: One commenter says EPA should move forward with the revocation of the older SO₂ standards (annual and 24-hour). However, since the revocation has been tied to the designation process, which has been pushed out to 2020, it appears that states are asked to implement three separate SO₂ NAAQS for the next eight years. This causes a burden for collecting and processing monitoring data, determining compliance, and conducting modeling and permit analysis for three separate standards.

EPA's Response: The 2010 SO₂ NAAQS rulemaking established how EPA would move forward with the revocation of the prior annual and 24-hour standards after designating areas for the new 2010 1-hour SO₂ NAAQS. EPA's rules provide that for most areas the 24-hour and annual standards will remain in effect in each area for one year following the effective date of its initial area designation under section 107(d)(1) for the new 1-hour SO₂ NAAQS. (See 75 FR 35520; June 22, 2010.) However, for areas that were designated nonattainment under the prior NAAQS at the time of the 2010 NAAQS' promulgation, or that were still subject to a SIP Call under the prior NAAQS, revocation of the prior NAAQS will not occur until such areas develop and submit, under CAA section 191, and EPA approves, a SIP showing attainment of the 1-hour NAAQS. 40 CFR 50.4(e). Several Region 8 areas are subject to this regulatory exception, which was not challenged in the recent litigation concerning the 2010 SO₂ NAAQS, and which no one timely petitioned the agency to reconsider. See 75 FR at 35581, n.41. Moreover, it is outside the scope of this limited designations action to consider any amendment to the NAAQS provisions that established how revocation of the prior NAAQS would occur. We certainly did not, in our proposed designations, indicate any intent to reopen section 50.4(e) or to reconsider the final decisions reached on this issue in the 2010 NAAQS rulemaking. However, regardless of when and whether revocation of the prior NAAQS occurs, we note that in the preamble to the final 2010 NAAQS we explained that any existing SIP provisions under CAA sections 110, 191, and 192 associated with the annual and 24-hour SO₂ NAAQS will remain in effect, including all currently implemented planning and emissions control obligations, including both those in the State's SIP and those that have been promulgated by EPA in FIPs. This will ensure that both the new nonattainment NSR requirements and the general conformity requirements for a revised standard are in place so that there will be no gap in the public health protections provided by these two programs. It will also ensure that all nonattainment areas under the annual and/or 24-hour NAAQS and all areas for which SIP calls have been issued will continue to be protected by currently required control measures. See 75 FR at 35580-82.

As mentioned above, EPA's rules provide that the annual and 24-hour NAAQS remain in place for any areas that were designated nonattainment under those NAAQS when the 2010 NAAQS was promulgated, or any area for which a State has not fulfilled the requirements of a SIP call, until the affected area submits, and EPA approves, a SIP with an attainment, implementation, maintenance and enforcement SIP which fully addresses

the attainment and maintenance requirements of the new SO₂ NAAQS. This, we explained in the final 2010 SO₂ NAAQS preamble, in combination with the CAA mechanisms provided in section 110(l), 193, and 172(e) will help to ensure that continued progress is made toward timely attainment of the SO₂ NAAQS. No one timely challenged EPA's conclusions regarding this approach, and we are not revisiting them in this initial designations action.

Comment: One commenter discusses that in the past, EPA has indicated it would seek to use dispersion modeling to make attainment designations for the 1-hour SO₂ NAAQS. (see EPA's proposed "Guidance for 1-Hour SO₂ NAAQS SIP Submissions.") The commenter continues that dispersion modeling of emissions can greatly over predict the pollutant concentrations. Several commenters state that dispersion modeling is a tool that would be best used for planning decisions and not for area designations.

EPA's Response: In this final designations action regarding areas with monitored violations of the 2010 SO₂ NAAQS, we are not reaching any conclusions about how to use dispersion modeling as a tool for either designations or planning decisions. However, we do not agree that it is appropriate to now conclude that modeling is not a tool to be used for area designations. In addition to using any valid data generated by existing monitors, refined dispersion modeling may appropriately inform specific designation and implementation decisions regarding sources that may have the potential to cause or contribute to a NAAQS violation. Our historical approach to SO₂ designations and implementation through permits and emission limitations has involved a combination of both monitoring and modeling. If commenters have objections regarding any future use of dispersion modeling in a future proposed designations action, they should raise those concerns at that time. Such issues are outside the scope of this final designations action.

3.2.8.2. Yellowstone County Area (Billings, MT)

Comment: Multiple commenters support a designation of 'unclassifiable' for the Crow Reservation.

EPA's Response: The Crow Tribe of Montana's Reservation is located adjacent to the Yellowstone County (partial) nonattainment area (Billings, MT area) that we are initially designating as nonattainment. As discussed in the Billings, MT TSD, this area of Indian country does not contain SO₂ emissions sources that we are currently prepared, based on monitoring data, to conclude are contributing to the design value at the violating monitor in Billings. Therefore, EPA is not including the Crow Tribe of Montana's areas of Indian country in the initial Billings, MT nonattainment area. The EPA is not designating any areas as unclassifiable in the current round of designations. EPA will designate these areas in a future round of final designations.

Comment: Multiple commenters discuss that a 'nonattainment' designation would have serious current and future economic impacts on businesses and the community in Yellowstone County.

EPA's Response: The EPA must designate the violating area as nonattainment based on CAA section 107(d). The EPA is revising its proposed nonattainment boundary from the entire county of Yellowstone to a smaller area in Billings. This information can be found in Region 8's technical support document (TSD) that is included in the docket for this action. With respect to impacts on the local economy and businesses, such issues are not relevant for designations actions, but the State has flexibility under the CAA to consider such impacts as it develops the control strategy to bring the area into attainment of the air quality standard.

Comment: One commenter discusses the uncertainty and accuracy/precision issue of monitoring ambient data for the new 1-hour SO₂ standard. They conclude that it is not definitive, confident, or even certain if the standard was exceeded at the Coburn Monitor. Another comment is that the EPA has not been able to articulate its own quality assurance guidance for adequate accuracy, precision, and reliability for the new 1-hour standard. Additionally, the EPA has not specified the criteria necessary for an attainment demonstration and is planning to defer this matter. Since this has not been defined it would appear unnecessary and premature to rush a nonattainment designation for Yellowstone County. Thus the law provides a clear and available alternative to nonattainment, unclassifiable. Another commenter discusses the failure to observe the basic scientific ideals of reproducibility and repeatability when using carefully collected "one of a kind" data can have significant unintended consequences. A parallel analyzer operating at the same location could readily provide a running plausibility check on the measurements and it would be under identical conditions, as to acknowledge causes of error. Replication is not infeasible temporally or spatially.

EPA's Response: The EPA has quality assurance regulations that can be found in 40 CFR part 58 Appendices A – G. Additional information and references can also be found in the document titled "Quality Assurance Handbook for Pollution Measurement Systems, Volume II, Ambient Air Quality Monitoring Program." Montana DEQ has an approved Quality Management Program and EPA routinely conducts Technical Systems Audits of Montana's monitoring program. The State has provided all the necessary information to show that the data that has been reported, including the data it decided to invalidate, follows the guidelines specified above.

Comment: One commenter discusses an additional concern regarding Coburn Road data for a nonattainment designation regarding the lack of a reliable method to detect and address cases of transient monitor malfunction or the influence of other extraneous variables. The commenter continues that invalid data arising from short-term malfunction (high concentration outliers) can go undetected and appear 'validated' in the record. The checks in place are specifically designed with the 500 ppb standard in mind; values near 75 ppb are not automatically considered extreme values. The previously satisfactory range of 1,000 ppb was too high in relation to the 75 ppb standard, since it would be in the lowest 10% of that range. The lower and upper extremes of the range are most susceptible to precision errors, and analyzers generally perform most reliably in the middle of the range. The commenter discusses that if an analyzer cannot provide an appropriate range for the regulatory concentrations then another one should be added.

MDEQ had several cases of transient problems detected before 2011. The commenter discusses an occurrence of a smoke event by the monitor found in Laurel and which subsequently showed a spike in SO₂. The monitor did not report or flag this data because the monitor was not “looking” for this or any other common events but interpreted vegetative smoke as significant SO₂ relative to the standard. Except for this chance report, the data would likely have been recorded and validated as an “unquestioned” or “unexplained” high reading. The commenter discusses that this issue is not discussed or considered in EPA’s “February 2002 Development of Emissions Inventory Methods for Wildland Fire”.

The commenter provides another ‘unexplained’ transient reading at the Coburn Road monitor. This ‘unexplained’ reading occurred after an auto-calibration run. The monitor showed an unremarkable reading before the calibration. An hour after the calibration, the monitor showed the highest value for the entire 2012 year, but then the following hour read close to the value taken one hour before the calibration. The commenter concludes that the reading taken 1 hour immediately following the calibration was an outlier, which could have been caused by an undetected transient event, but was retained and validated. The commenter discusses that including this highest reading results in a 99th percentile value for 2012 of 70 ppb. Without the high reading, the 99th percentile value would drop to 55 ppb. If 55 ppb were used instead of 70 ppb, the 2010-2012 design value would be below 75 ppb. The commenter concludes that the currently accepted systems are not equipped to discern these possible false data points. Another commenter concludes that data collected prior to August 23, 2010, when monitors were operated and configured to evaluate a higher standard, should not be used to determine compliance with the new 1-hour standard. Calculation of a defensible design value based on 2010-2012 is impossible and determination should be done with 2011-2013 data.

EPA’s Response: EPA disagrees with the commenter. Montana DEQ has conducted audits at the Coburn Road monitor at levels low enough for the data to be reliable for a 75 ppb NAAQS compliance determination. The monitor located in Laurel is an industrial monitor in the area and not under the management of Montana DEQ.

The data point that the commenter described in 2012 as an outlier is outside the designations years of 2009-2011. However, this data point was reviewed by both the State and EPA. It was determined that this exceedance was coincidentally after an hourly calibration check and that the exceedance was not caused by the calibration check.

Montana DEQ did lower its audit levels over the three year period, but all audits had levels encompassing the 75 ppb level. Because of this, EPA finds that the 2009-2011 data is robust enough to be reliable for a 75 ppb standard. See Table 1 below for the State’s historical audit levels for 2009-2011. Additionally, the comment pertaining to the “February 2002 Development of Emissions Inventory Methods for Wildland Fire” is outside the scope of this designation action.

Table 1

Montana DEQ's Historical Audit Information

Date	Audit levels (ppb)			
2/25/2009	7.5	82	146	820
5/19/2009	36	147	358	819
8/12/2009	48	153	357	685
11/18/2009	50	186	424	418
3/23/2010	7	73	259	688
6/22/2010	8	74	270	710
9/21/2010	39	181	351	483
12/1/2010	58	228	338	449
3/24/2011	15.5	36.8	90.6	149.7
5/25/2011	29	72.4	126.7	250.5
11/17/2011	41.5	70.1	103.7	206.7

Comment: One commenter discusses that the CAA does not contemplate classifying areas nonattainment on a countywide or statewide basis, only for areas which are known to be presently “not meeting the standard,” not areas demonstrating compliance. The EPA’s ‘default’ county boundary approach is only in the 2011 guidance memo that was never subject to external review, where many entities would have expressed significant concerns. The commenter continues that Yellowstone County is very large and comparable in size to two eastern states, which contain multiple counties. The EPA would not designate one of these small states nonattainment if only one monitor showed a violation when others showed attainment. Additionally, the EPA should show equal consideration to the rest of Yellowstone County as they show to the Crow Reservation, where there are no contributing SO₂ sources and no ambient monitoring data. The boundary should be grounded in reality, thus smaller than the entire county, and based on available information, such as prevailing winds, similar local terrain, etc.

EPA’s Response: EPA disagrees that the CAA does not provide for EPA to propose a countywide nonattainment boundary, but the commenter’s objection has been rendered moot by the final designation covering a smaller area of Yellowstone County. As a proposal, the EPA was requesting additional information from the State/local/tribal air agencies, stakeholders, and the public on what a nonattainment area boundary should be in Yellowstone County. On April 3, 2013, the State of Montana provided additional information, which included a five-factor analysis, on the entire county proposal in response to EPA’s preliminary decision. Based on an analysis of the data provided by the State and commenters, in conjunction with the five-factor analysis, EPA determined that a partial county initial designation was appropriate instead of the entire county. EPA made the final designations for the 2010 1-hour SO₂ NAAQS using an evaluation of the recommended five-factors described in designations guidance that was issued by EPA through a March 24, 2011, memorandum from Stephen D. Page, Director, U.S. EPA, Office of Air Quality Planning and Standards, to Air Division Directors, U.S. EPA Regions I-X (Designations Guidance), as well as other relevant information in

determining an appropriate initial nonattainment area boundary for Yellowstone County. Please refer to Region 8's TSD.

Comment: One commenter discusses that the March 2011 Designations Guidance memo only gave states and tribes two months to complete a complex analysis. The designation strategy did not give state or local regulators, or affected industry, the chance to address the issues proactively. Even given this short time period, MDEQ prepared a compelling TSD. However, EPA did not adequately consider MDEQ's analysis or statutory context of a nonattainment area when proposing the entire Yellowstone County (excluding the Crow Reservation) nonattainment. The commenter concludes that this is a direct contradiction of the intent of the March 2011 memo and intended statutory approach to designations where EPA and a state arrive at dissimilar conclusions. Additionally, the commenter discusses that the memo omits mention of area-specific analyses conducted by other entities that would be impacted by a nonattainment designation, although statute allows input from others to a certain extent.

EPA's Response: The March 2011 Designations Guidance memo identifies that CAA section 107(d) provides EPA the authority to make modifications that it deems necessary to the recommended designations of areas submitted by states. The designations process is primarily between EPA and the state, which is discussed in the CAA section 107(d). CAA section 107(d)(2)(B) further discusses publication of designations where "Promulgation or announcement of a designation under paragraph (1), (4) or (5) shall not be subject to the provisions of sections 553 through 557 of Title 5 (related to notice and comment), except nothing herein shall be construed as precluding such public notice and comment whenever possible." Therefore, EPA can provide a public comment period for interested parties but is not required to do so. The EPA encourages impacted stakeholders to work with their state officials to coordinate an appropriate recommendation or response to any EPA proposed boundary modifications during the designations process.

Comment: Commenters discuss current and historical data, which are showing compliance with the new 1-hour standard and cannot be part of a nonattainment area. Five of the six monitors in the Billings/Laurel area show compliance and they are located within close proximity to major SO₂ sources. The Coburn Road monitor was in compliance in 2007-2009, but only indicated a violation in 2010. Evaluation of other monitoring sites that were in operation since 2000-2006, but are no longer in service, were all disconnected due to low SO₂ concentrations. All these sites had 99th percentile values and 3-year averages below the standard. The commenter points out that the emissions were about 75% higher during 2000-2006. The commenter further discusses monitoring conducted in the early to mid-1990s. The sites that were operating in the '90s had large emissions, but, when normalized for current emission levels, the 99th percentile values for these sites were below the new 1-hour standard. These old monitoring areas, west and southwest of PPL, should be an attainment area.

EPA's Response: The EPA agrees that the initial nonattainment area should be revised to be smaller than a countywide boundary. However, historical data can only be used for

informational purposes and non-regulatory monitors cannot be used for purposes of establishing a NAAQS violation for designations. The June 22, 2010 final NAAQS rule (75 FR 35520) discusses that the standard should use a “concentration-based form averaged over three years in order to give due weight to years when 1-hour SO₂ concentrations are well above the level of the standard, than to years when 1-hour SO₂ concentrations are just above the level of the standard.” Thus the three-year average provides more stability for fluctuations when certain years are high compared to a no-exceedance based form. The data years that EPA is using for this first initial round of SO₂ designations are 2009-2011.

Comment: One commenter discusses that the State of Montana and industry have taken a proactive approach to SO₂ issues in Yellowstone County and now it appears they are being punished with immediate, retroactive nonattainment designation for diligently monitoring SO₂ concentrations in the area. Montana was not specifically required to operate any SO₂ monitors in Yellowstone County during the 2009-2010 period and the data was never collected to demonstrate compliance with the new standard. However, the EPA is proposing to extend the statutory designation years into the future for other areas that did not monitor, allowing those areas to address potential problems in the meantime and avoid a nonattainment designation.

EPA's Response: The CAA requires EPA to complete area designations within two years after promulgation of a new or revised NAAQS, with a possible one year extension. Further, the form of the 2010 1-hour NAAQS is a three year average. Therefore, designation decisions based on the most recent three years of SO₂ monitoring data necessitate using data collected prior to the standard being finalized in June 2010. Based on valid SO₂ monitoring data from 2009-2011 a nonattainment area designation is warranted for part of Billings, Montana pertaining to the Coburn Road monitor. The Coburn Road monitor is appropriate to be used for this designations process because it is an approved regulatory monitor by both the State and EPA. The State is under an approved Quality Management Program, where EPA routinely conducts a Technical System Audit for Montana's monitoring program, and the State has provided all necessary information to show that the data and the monitor follow all guidelines set out by the EPA. The EPA expects to be able to proceed with designation actions in these areas without violating monitors once additional data are gathered. Additional information on EPA's still developing SO₂ implementation strategy can be found at the following websites: Sulfur Dioxide Implementation - Programs and Requirements for Reducing Sulfur Dioxide <http://www.epa.gov/oaqps001/sulfurdioxide/implement.html> and at Next Steps for Area Designations and Implementation of the Sulfur Dioxide National Ambient Air Quality Standard <http://www.epa.gov/oaqps001/sulfurdioxide/pdfs/20130207SO2StrategyPaper.pdf>.

Comment: One commenter discusses that since the standard did not become effective until August 23, 2010, all of 2009 and the majority of 2010 data are non-representative as these were collected before the new 1-hour standard went into effect. Thus it does not meet EPA's own regulations to use monitoring data for designations only if it meets strict technical and quality standards. Because the standard was not in place until after August

23, 2010, three of the four quarters (and thus 2010) are incomplete by definition in 40 CFR Part 50, Appendix T. The first three quarters were designed and operated for the regulatory purpose of measuring an older, substantially higher NAAQS of 500 ppb and thus use of the data is inappropriate for designations with the new 75 ppb standard. There is insufficient data to consider 2010 a valid year for determining the design value. Also, by denying data collected in 2013, the EPA is effectively and unnecessarily giving more weight to this non-representative data. The EPA even acknowledged that the monitoring network in the country overall was inadequate to address the new standard since the network had been shrinking for many years. The commenter concludes that in the majority of the 2009-2011 period, the standard did not exist and that this clearly defeats ordinary due process protections. Additionally, the commenter discusses this 'look-back' practice as termed "ex post facto" application of law and the lack of effective notice is a selective and arbitrary denial of effective due process. The commenter quotes "It is a commonplace of administrative law that '[a]n agency may not promulgate retroactive rules absent express congressional authority.'" (Nat'l Petrochemical & Refiners Ass'n v. EPA, 643 F.3d 958 (DC Cir. 2011)(quoting Nat'l Min. Ass'n v. Dep't of Labor, 292 F.3d 849, 859 (DC Cir. 2002))). The language of the NAAQS statute does not provide for retroactive application. Instead, the statute provides additional time if needed to make determinations and allows an unclassifiable designation when insufficient data are available. Thus EPA's nonattainment designation determines compliance with a new rule based on past behavior that was not subject to the rule for which compliance is being measured. The commenter concludes that EPA cannot apply the SO₂ rule retroactively to emissions that complied with the previous standard and must instead use data gathered when the new rule is in effect to determine compliance.

EPA's Response: EPA disagrees with this commenter. There were no specific changes made in the Quality Assurance requirements for SO₂ monitoring in 40 CFR Part 58 Appendix A for the new 1-hour SO₂ NAAQS. Thus data collected prior to June 2010 when the new 1-hour SO₂ NAAQS was finalized meet the same SO₂ Quality Assurance requirements as SO₂ data collected after the 1-hour NAAQS was finalized. Montana DEQ conducted audits at the Coburn Road monitor at levels low enough for the data to be reliable for a 75 ppb NAAQS determination. See Table 1 above for the State's historical audit levels for 2009-2011.

The 75 ppb design level falls within the range of audit values Montana DEQ used, and therefore, EPA finds the 2009-2011 data robust enough to be reliable for a 75 ppb standard.

EPA also disagrees with the commenter's suggestion that using valid data that predates the new NAAQS for purposes of subsequent designations under the NAAQS somehow renders the NAAQS retroactive in its effect. Designations by their very nature have only prospective effect under a new NAAQS, and those are limited to triggering a state's duty to develop a prospective attainment plan that may (or may not) include new future-applicable emissions limitations. And those limits will not be established or impose binding obligations on air pollution sources before separate state and federal action is taken to adopt them. In no reasonable sense can this statutory structure, in

implementation, be viewed as constituting any retroactively applicable requirement that injures any one in any way. Moreover, adopting the commenter's view on this issue would render it impossible for either states or EPA to ever meet their statutory obligations under CAA section 107, as those duties impose deadlines on state governors and on EPA that fall before any post-NAAQS 3-year period of monitoring could run and generate certified and submitted data. Such a reading cannot be reasonable.

Comment: One commenter discusses that the designations for the Uinta Basin in Utah are proposed as unclassifiable for the 2008 ozone NAAQS even though monitors were showing a violation. EPA found the data from the non-regulatory monitors in the Uinta Basin were inadequate to make a nonattainment designation, although they were following the strict requirements set out in 40 CFR Part 58. The same is true for the Coburn Road monitor since it did not meet the quality assurance requirements to measure the lower emissions of the new standard. Additionally, to achieve "regulatory" status, monitors should be subject to adequate government oversight, follow an approved quality assurance project plan (QAPP), and provide satisfactory, quality-assured data. If the monitoring system does not strictly comply with EPA's regulatory requirements, then the data should not be used to determine NAAQS violations. The required checks under a QAPP would not have detected outliers from the 75 ppb standard as extreme values. The Coburn Road monitor was not designed or operated for the regulatory purpose of measuring compliance with the 75 ppb standard. The three-year average 99th percentile value for 2009-2011 is 79 ppb, only 4 ppb above the 75 ppb standard. The potential bias range for the Coburn Road monitor was -10 ppb to +7 ppb, where 4 ppb is within this range. One commenter concludes that since the data is within this bias and error range, it is not known whether the area is exceeding the standard. Thus this data is insufficient to designate the area nonattainment. Another commenter further discusses that corrective action is needed when quality assurance errors are found and the monitor must be specifically designed to collect the correct data for the specific NAAQS if the data is to be used for nonattainment designations. The commenter concludes that since the data from 2008-2010 do not meet EPA's high quality standards and were gathered before the effective date of the new NAAQS, EPA must designate Yellowstone County as unclassifiable.

EPA's Response: The specific circumstances leading to the EPA's conclusions that data from the Uinta Basin monitors were non-regulatory were unique to those monitors, and included the lack of approval of a monitoring QAPP by the EPA and a lack of complete quality assured data showing an ozone NAAQS violation. The Uinta Basin ozone monitors referred to in this comment did not have an approved Quality Assurance oversight program at the time of designations for the 2008 ozone standard. In addition, ozone monitors in the Uinta Basin did not have three years of data available at the time of designations. The monitor at Coburn Road is operated under a Quality Management Plan by the State of Montana, and has generated three calendar years of data. Montana's historical audit levels are discussed in a separate response and summarized in Table 1 above.

Comment: One commenter discusses that SO₂ monitors in the Billings/Laurel area, including the Coburn Road monitor, have shown compliance with the previous 500 ppb standard since 2001.

EPA's Response: The comment is outside the scope of this designation action. We are not reaching conclusions with respect to whether the area is meeting the 500 ppb standard.

Comment: One commenter discusses that Coburn Road monitor was only marginally in violation, is in an atypical location, and it will virtually be in compliance from 2011 forward.

EPA's Response: The EPA disagrees that there was a 'marginal' violation of the 1-hour SO₂ standard. Per the CAA section 107(d)(1)(A)(i) a nonattainment area is any area that does not meet the national primary or secondary ambient air quality standard for the pollutant or that contributes to a nearby area that does not meet the standard. The design value for designations for the period 2009-2011 is 79 ppb, which exceeds the 75 ppb 1-hour SO₂ standard. EPA also disagrees that the Coburn Road monitor is located at an atypical location. The monitor was sited to represent the maximum concentration of SO₂ for the area, which would better protect public health, and approved by EPA into the State's monitoring network. The 79 ppb design value for the Coburn Road exceeds the 75 ppb NAAQS for 2009-2011, and the design value for 2010-2012 of 78 ppb also exceeds the NAAQS. Therefore the area associated with this monitor is appropriately designated nonattainment.

Comment: Multiple commenters request that EPA defer classification of Yellowstone County, as EPA intends to do for other areas lacking representative, or any, monitoring data. Since these other areas are being given the opportunity to demonstrate or achieve compliance in the future, the State of Montana and Yellowstone County should be afforded the same opportunity.

EPA's Response: The EPA disagrees that parts of Yellowstone County should not be designated during this initial designations process. For this initial designation rulemaking, EPA is designating areas as nonattainment that have monitored violations for the 2009-2011 design value years. Since the Coburn Road monitor has a design value greater than the new 1-hour SO₂ standard, in accordance with CAA section 107(d)(1)(A)(i), this area should be designated as nonattainment. We are not prepared to reach designations conclusions about other areas, which will be addressed in future final designations actions.

Comment: One commenter discusses that a 'nonattainment' designation ignores the balance that should be considered and that such a decision needs to be data-driven and defensible. Some commenters discuss that EPA's proposed designation of nonattainment is premature, inappropriate, unnecessary, and should be reconsidered. Another commenter discusses that the statute does not suggest that nonattainment was easily determined, while attainment could only be defined in the future. This is two sides of the

same coin. The commenter goes on to discuss that an attainment area would be those areas that affirmatively meet the standard and for all other areas, the statute expressly contemplates designation of unclassifiable as satisfying all requirements of the initial designation, with final attainment or nonattainment designation to be identified at a later date, based on additional monitoring data and analysis. The CAA does not require EPA to designate nonattainment, nor is there anything that requires EPA to modify state recommendations.

EPA's Response: The EPA disagrees with the commenters. The CAA section 107(d)(1) provides definitions for the terms attainment, nonattainment, and unclassifiable. The definition of nonattainment is any area that does not meet the national primary or secondary ambient air quality standard for the pollutant or that contributes to a nearby area that does not meet the standard. The definition of unclassifiable is any area that cannot be classified on the basis of available information as meeting the NAAQS. EPA's review of the available information concludes that there is no lack of information that would justify any action, in accordance with CAA section 107, for the area around the violating Coburn Road monitor other than a nonattainment designation. Our TSD supports this designation. Additionally, CAA section 107(d)(1)(B)(ii) provides the Administrator the option to make modifications to the recommendations provided by states as deemed necessary.

Comment: One commenter discusses that EPA did not address 2012 emissions or monitoring data in their analysis. This year is more representative of current air quality and with the lower emissions, reduced compared to 2010 emissions, the area would be attaining.

EPA's Response: The EPA disagrees that it did not review 2012 data during the one-year extension. However, the 2010-2012 design value was still above the standard at 78 ppb. Since 2012 data did not provide any new information, the EPA based its designation of nonattainment on 2009-2011 design value that is in violation of the NAAQS, consistent with the other areas that EPA is designating as nonattainment at this time.

Comment: Multiple commenters state that 2011-2013 data would provide the EPA a clearer picture of emissions in Yellowstone County. This would show Yellowstone County as currently attaining. Another commenter states that 2011-2013 would be the first period in which the 2010 standard was actually in effect for the entire period. Years 2011 and 2012, evaluated individually, do not show an exceedance at the 99th percentile level, nor would it suggest a violation.

EPA's Response: The EPA agrees that 2011, as an individual year, does not have a 99th percentile 1-hour value above 75 ppb. However, compliance determinations for the 1-hour SO₂ NAAQS are based on a 3-year average of 99th percentile values, not on a single year. The 2011 design value (based on the three years 2009-2011) for the Coburn Road monitor in Yellowstone County violates that standard at 79 ppb. For this initial designation rulemaking, EPA is designating areas as nonattainment that have a monitored

violation for the design value for the years 2009-2011. Note also that the 2012 design value (based on the three years 2010-2012) also violates the standard at 78 ppb. Since the Coburn Road monitor has a design value greater than the new 1-hour SO₂ standard, in accordance with CAA section 107(d)(1)(A)(i), this area is appropriately designated as nonattainment. The State's Quality Assurance measures, as discussed elsewhere in these responses, also support EPA's finding that the 2009-2011 data are complete, quality assured, reliable for a 75 ppb standard, and show a regulatory violation of the new 1-hour SO₂ NAAQS.

Comment: Multiple commenters question the reliability and representativeness of 2010 data, and the data set of 2009-2011 used by EPA, at the Coburn Road monitor in Yellowstone County for current and future conditions. Another commenter discusses that 2009, 2011, and 2012, represent similar and consistent operating conditions and reflect future operations, which are enforceable, permanent, and quantifiable emission reductions. Other comments discuss that since 2010 is the one year that is the basis of EPA's recommendation of nonattainment, it should be reliable and representative. Another commenter discusses that the majority of the exceedances for 2009-2011 were in 2010. From 2008-2012, 70% of highest monitored concentrations were in 2010 and from this same period that the average for 2010 was 13 ppb higher than the other four-year averages. This same commenter discusses that the standard deviation of 99th percentile over the past six years ranges from 63.2 ppb – 88.1 ppb, which represents reasonable values and any data outside of this range should be considered outliers. From this 2007, 2008, and 2010 are questionable. Therefore, the 2010 monitoring data from Coburn Road monitor should not be used for the designations process.

EPA's Response: The EPA disagrees. While the numbers of exceedances in 2010 are higher than in other years, neither EPA nor the State has found any reason to believe that the values read by the Coburn Road monitor are not valid readings. Quality assurance checks done by the State show that the monitor was reading correctly and that the data are valid. The potential for inter-annual variability in data is a key reason that NAAQS compliance is determined by using a three-year average form of the standard (using consecutive years), so it is inappropriate to further account for variability by selecting specific years to use or to discard.

Comment: Multiple commenters discuss that SO₂ values for 2010 were influenced by the requirement under an EPA, State of Montana and ExxonMobil consent decree for catalyst testing at ExxonMobil and that the data is not representative of current or future concentrations. A commenter also discusses that 2008 is not representative due to early catalyst testing at ExxonMobil under the consent decree. Another commenter discusses that the consent decree driven emissions increase in 2010 corresponds directly to a majority of the documented NAAQS exceedances, 10 of 16, for the 2009-2011 time-period.

EPA's Response: The EPA disagrees that 2008 and 2010 are not representative. Found within Region 8's TSD, catalyst testing performed at ExxonMobil in 2008 and 2010 did not correlate with the days of exceedances. The exceedances were primarily from the

west-southwest wind direction, which would make ExxonMobil upwind of the monitor during the exceedances. EPA's response to this comment can be found in the "Air Quality," "Emissions and Emissions Related Data," and "Meteorology" sections of Region 8's TSD.

Comment: Multiple commenters support recommendations for an "unclassifiable" designation for Yellowstone County until full, reliable data is collected. Another commenter asserts that the EPA improperly concluded in their TSD that the 2009-2011 dataset provides adequate evidence of emissions of current and future years and is not indicative of current and future nonattainment of the NAAQS. Thus available data does not support this conclusions and the county should be designated unclassifiable. The commenter further discusses that the unclassifiable designation was developed in part to avoid a needless rush to judgment on a nonattainment or attainment area. Therefore, EPA should agree with Montana's unclassifiable designation and then work with MDEQ to ensure that the standard continues to be met. This approach would avoid unwarranted costs for unnecessary emission reductions. Another commenter discusses that it would be reasonable to presume that the CAA does not expect a state to revise their SIP when federal requirements in a consent decree interfere with attainment (42 USC § 7410(a)(3)(C)).

EPA's Response: The EPA is not designating any areas of the country as unclassifiable with this initial designation rulemaking. Areas that do not have monitored violations will be designated in future final actions. However, EPA is designating, as "nonattainment," areas that have a monitored violation for the 2009-2011 design value years. In Region 8's TSD, EPA discusses that the consent decree between ExxonMobil, the State of Montana, and EPA was not the cause of exceedances in 2010. Since the Coburn Road monitor has a design value for 2009-2011 greater than the new 1-hour SO₂ standard, in accordance with CAA section 107(d)(1)(A)(i), this area is appropriately designated as nonattainment.

Comment: Multiple commenters discuss PPL-Montana's plan to mothball the Corette power plant in April 2015 because of upcoming regulations. It would take a significant amount of time to resume operations due to permitting, equipment installation, etc. The commenters discuss that in 2010-2012, there were no exceedances of the 1-hour standard when PPL was offline or even when winds were from other directions other than from the southwest. Therefore, the monitor data will decrease drastically and remain low indefinitely as a direct result of PPL's power plant being mothballed. The commenters further discuss that if PPL were to decide to resume operations, they would first need to demonstrate compliance with the new Mercury Air Toxics (MATS) rule, and thus installation of a baghouse would be necessary. The commenters discuss that the baghouse will incidentally reduce SO₂ emissions, on top of the capture achieved by the current Electrostatic Precipitator (ESP), by capturing particles and ash material, and perhaps 10% of SO₂ could be captured on this material. They conclude that 10% is very significant since PPL accounted for about 90% of emissions to the Coburn Road monitor site during 2010. Reductions of SO₂ necessary to achieve demonstrated compliance are not very large and a small tonnage reduction can be very significant.

EPA's Response: The EPA agrees that if the Corette power plant were to be mothballed that the overall emissions in the area would be reduced. However, PPL does not plan to mothball or add controls until April 2015, or April 2016 if the extension is granted for compliance with the MATS rule. The State has flexibility under the CAA for a nonattainment area to consider impacts, such as these, as it develops the control strategy for the SIP to bring the area into attainment of the air quality standard.

Comment: Some commenters discuss working to reduce SO₂ at Corette before the 2018 NAAQS compliance date in order to preclude a nonattainment designation. EPA should take into account this potential commitment on the part of PPL and MDEQ with respect to the designations decision. Other areas are being granted this deferral under the Next Steps policy statement by EPA. Another commenter discusses that, if provided more time, the State and PPL would use the time to establish an hourly emission limit for certain sources and evaluate where additional reductions need to be made.

EPA's Response: The EPA agrees that PPL and MDEQ should be working to reduce SO₂ emissions from the Corette power plant, however, we do not agree with deferring designation for this area that has a monitored violation. Other areas for which we are not yet prepared to reach final designations decisions are areas for which additional monitoring data or other information are needed. Concerns about how those areas, which are outside the scope of this final action, are to be treated should be raised in response to our future proposed designations for those areas. The Coburn Road monitor is violating the 1-hour SO₂ standard for 2009-2011 based on valid data and is appropriately designated nonattainment with this rulemaking.

Comment: One commenter discusses that the nonattainment area should extend only a few thousand feet northeast of Coburn Road monitor, stopping short of the elevation contour of lower Coburn monitor, Brickyard monitor, Lockwood Park monitor, Johnson Lane monitor, and Pine Hills monitor, where all these monitors and their representative areas show attainment. These areas show compliance and demonstrate that Lockwood facilities do not contribute to exceedances or violations at Coburn Road monitor. The commenter went further to discuss that when Phillips66 or CHS were online but not PPL Corette, there were no exceedances. The commenter also noted that there were still exceedances when Western Sugar was offline but only when PPL was online. Thus the nonattainment area should extend out from contributing source, PPL Corette, not significantly farther than Coburn Roads distance from PPL Corette, and exclude all areas below the elevation of Lower Coburn station. Another commenter discusses that if EPA would designate a portion of the county nonattainment then EPA should be sure to include all sources contributing to the nonattainment designation within the boundary. The commenter continues that it would be inappropriate to set a designation boundary that failed to capture areas that are potentially influenced by the other sources.

EPA's Response: The EPA agrees that the initial nonattainment area should be revised from the entire county to a smaller boundary. The EPA reviewed the State's five-factor analysis and new nonattainment boundary recommendation, which only included the

violating monitor (Coburn Road monitor) and PPL Corette, and agrees with the State's analysis and revised boundary. The EPA's detailed response to this comment can be found in Region 8's TSD. We are not at this time prepared to reach final designations conclusions regarding any other areas or sources outside the boundary of the initial nonattainment area.

Comment: Two commenters submitted a five-factor analysis for a smaller nonattainment area boundary for Yellowstone County.

EPA's Response: The EPA agrees with the commenters on establishing a smaller initial nonattainment area boundary. Our detailed response can be found in Region 8's TSD.

Comment: Some commenters discuss current and future regulations and possible impacts on reducing SO₂ in the Billings/Laurel area. The commenters included: EPA's refinery initiative and associated consent decrees, existing FIP implementation, MATS/utility MACT implementation, regional haze/BART implementation, NSPS Subpart Ja, EPA's flare initiative, and boiler MACT implementation. One commenter discusses that all these regulations will have some SO₂ reductions at certain facilities in the Billings/Laurel area and that the county would demonstrate compliance solely through the actions already required by existing and enforceable programs. However, another commenter discusses that all but two will have little to no impact on reducing SO₂ emission, which are the EPA's refinery initiative/associated consent decree and EPA's FIP.

The following discusses comments on each of the regulations listed above and EPA's responses.

-EPA's refinery initiative and associated consent decree, and SO₂ FIP Implementation: One commenter discusses that between 2002 and 2005, Billings/Laurel refineries and representative parent companies each entered into a consent decree with EPA and the State of Montana. Phillips66 and CHS have largely completed their consent decrees and had emission reductions. ExxonMobil was implementing their consent decree, completing catalyst testing, and implementing findings during and after the 2008-2010 period that EPA describes as "representative of normal emissions." In 2010, ExxonMobil had more than a 1,600 tons per year increase over 2009 and 2011 years, which EPA noted as "normal." Years 2011 and 2012 show dramatic decreases in emissions at ExxonMobil. These additional emissions that resulted from the consent decree required catalyst testing contributed to the high values in 2010 and since the controls have been added, emissions are unlikely to return to 2010 levels. Thus 2010 is an anomaly. The commenter also discusses that even though the FIP has been delayed by recently completed unsuccessful litigation, it has not rendered the FIP moot and it will still apply to those facilities. The FIP primarily applies to flaring events at refineries (CHS, ExxonMobil, and Phillips66) and MSCC, where these facilities are required to develop and submit to EPA for approval flare monitoring plans. These plans were possibly held up by the recent litigation.

EPA's Response: The EPA has revised the initial nonattainment area to include only the Corette power plant and the violating monitor (see Region 8's TSD). Thus the other sources and the areas that will show reductions from the EPA's refinery initiative and from the FIP's implementation are not addressed in this final action, and will be addressed in a future final designations action and are outside the scope of this initial nonattainment designation.

-Regional Haze FIP: One commenter discusses that for the Corette power plant the Regional Haze FIP revised the SO₂ emission standard, which represents a 19% reduction in the previously allowable standard. This would effectively eliminate previously allowable excursions of high emissions that would cause Corette to exceed the standard. Additionally, the FIP would have effectively shaved off about 30% from the allowable high-end emissions that Corette would emit. The commenter concludes that to ensure the standard is met, Corette would implement fuel blending to address high sulfur coal that is shipped to the plant. Another commenter discusses that other than the SO₂ limit, which is averaged over a rolling 30-day period, no additional emissions reductions would result in the Billings/Laurel area.

EPA's Response: The EPA agrees that the Regional Haze FIP pertaining to Corette had set a lower allowable SO₂ limit. However, this lower limit is what the Corette power plant is allowed to emit and is based on Corette's actual emissions with an added margin of compliance. Corette's actual emissions would not necessarily be reduced by the lower allowable limit under the Regional Haze FIP.

-MATS/Utility MACT Implementation. One commenter discusses that the facilities affected by this rule would be Corette and YELP. Another commenter discusses that for the implementation of this rule, Corette would need substantial controls to lower air toxics and SO₂ emissions or mothball the plant in April 2015. The options included for this rule would be for the facilities to take a hydrochloric acid limit or a SO₂ limit and it is assumed that Corette would take the hydrochloric acid limit. Any controls installed for this rule associated with PM or metal limits will provide co-benefit of additional SO₂ control.

EPA's Response: The EPA has revised the initial nonattainment area to include only the Corette power plant and the violating monitor (see Region 8's TSD). Thus the other sources and the areas that will show reductions from of the MATS/Utility MACT rule (except for PPL Corette) are outside the scope of this initial nonattainment designation and will be addressed in a future final designations action. EPA agrees that if the Corette power plant were to be mothballed, the overall emissions in the area would be reduced. However, PPL does not plan to mothball or add controls to Corette until April 2015, or April 2016 if an extension under the MATS rule is granted. The State has flexibility under the CAA for a nonattainment area to consider impacts, such as these, as it develops the control strategy for the SIP to bring the area into attainment of the air quality standard.

-Boiler MACT Implementation. One commenter discusses that Montana DEQ in 2011 made a case that the implementation of this rule would significantly reduce SO₂ at major sources. However, EPA dismissed this and stated that since the rule has been indefinitely delayed, anticipated reductions could not be factored into this initial designation and that the rule would not have a significant effect on the area. The reconsideration of EPA's Boiler MACT standard for major sources was finalized and published as 40 CFR 63, subpart DDDDD on January 31, 2013. The commenter further discusses that even though exact reductions is still unknown, the assumption cannot be that SO₂ reductions will be insignificant. Another commenter discusses that for subpart DDDDD, MSCC, PPL, ExxonMobil, CHS, and Phillips66 appear to meet the applicability requirements of the rule. The commenter continues that reduction in SO₂ is not quantifiable at this early stage, but improvements in efficiency and tune-up will likely lead to slightly lower emissions. Additionally, the reconsideration of EPA's Boiler MACT standard for area sources was finalized and published as 40 CFR 63, subpart JJJJJ on February 1, 2013. The commenter discusses subpart JJJJJ, where Western Sugar's coal-fired boilers would be subject to Hg and CO limits. However, it is still unclear what steps Western Sugar may take to meet the Hg emission limits. If scrubber upgrades are considered for Hg control at Western Sugar, a co-benefit of SO₂ emissions reductions will be realized.

EPA's Response: The EPA agrees that exact SO₂ emission reductions for the Boiler MACT implementation rule cannot be known at this time. However, the EPA has revised the initial nonattainment area to include only the Corette power plant and the violating monitor (see Region 8's TSD). Thus the other sources and the areas that will show reductions from subpart JJJJJ and subpart DDDDD (except for PPL Corette) of the Boiler MACT rule are outside the scope of this initial nonattainment designation and will be addressed in a future final designations action. For PPL's Corette power plant, the State has flexibility under the CAA for a nonattainment area to consider impacts, such as these, as it develops the control strategy for the SIP to bring the area into attainment of the air quality standard.

Comment: MEIC and Sierra Club support designation of all or a portion of Yellowstone County as a nonattainment area for the SO₂ NAAQS, but believe that EPA must also designate all or a portion of Rosebud County as a nonattainment area for the SO₂ NAAQS. The largest source in Rosebud County is Colstrip, and even with future reductions from the regional haze plan, violations of the 1-hour SO₂ standard still occur. The commenters agree with EPA that ExxonMobil testing in 2010 is unavailing and since ExxonMobil is downwind of the monitor they are unlikely the sole cause of the violations. Additionally, MDEQ's five-factor analysis proposal for only Corette in the nonattainment area (NAA) does not follow CAA requirements that all contributing sources to the violation be included in the NAA. Not one source is solely responsible for SO₂ violations and in addition, other sources in the area emit the same or even more SO₂ than Corette. From the modeling analysis, where conservative assumptions about the other sources emissions were assumed, Corette would need to reduce its SO₂ emissions by more than 88%. In support of these comments, MEIC and Sierra Club submit modeling of SO₂ NAAQS violations in Yellowstone and Rosebud Counties, where the

modeling predicted that exceedances would extend throughout the region and up to a distance of 50km from the sources (but excluding the Crow Reservation). This modeling is appropriate because Yellowstone County contains only one SO₂ monitor and Rosebud County contains none. EPA is required to consider all evidence before it—including submitted modeling—in making attainment and nonattainment designations.

EPA's Response: The EPA agrees with the commenter that a portion of Yellowstone County should initially be designated nonattainment. However, EPA is not yet prepared to conclude whether Rosebud County should be designated in whole or in part nonattainment based on a modeling analysis. In this initial round of final nonattainment designations, the EPA is not addressing modeling either in the initial nonattainment areas or in other areas, which will be addressed in a future round of final designations. Thus Rosebud County and the remaining portion of Yellowstone County are outside the scope of this initial nonattainment designation, and will be addressed in a future final action, which could include determining whether initial nonattainment boundaries need to be extended, new nonattainment boundaries need to be designated, or if the areas should be designated attainment or unclassifiable. Region 8's TSD provides a more detailed analysis of revising Yellowstone County's nonattainment boundary under sections "Air Quality Data" and "Emissions and Emissions-Related Data" based on monitoring data.

3.2.9. Multi-Region Areas

3.2.9.1. Campbell-Clermont Counties, KY-OH Area

Comment: In a March 6, 2013, letter, the Commonwealth of Kentucky submitted a response to EPA's February 6, 2013, intended nonattainment designation and boundary determinations for areas in relation to the 2010 SO₂ NAAQS. Kentucky expressed strong opposition to any portion of Campbell County, Kentucky being designated nonattainment. Specifically, the Commonwealth stated "... Kentucky strongly opposes the proposed nonattainment designation of Campbell County due to overwhelming supporting data indicating that there is no environmental benefit to designating the Kentucky portion as nonattainment." Kentucky cited to EPA's TSD which explained that the source causing the violation at the Campbell County, Kentucky monitor is in Clermont County, Ohio. The Commonwealth provided some general technical points implicating the source in Clermont County as causing the violation at the monitor in Kentucky, and mentioned that the nonattainment designation for Campbell County would cause more stringent permitting requirements and would not result in any additional programs in Campbell County, Kentucky to reduce SO₂ emissions. Also, Kentucky noted that "... the total area in Kentucky designated nonattainment is ironically larger than the total area designated nonattainment in Ohio, the location of the source causing the violation."

EPA's Response: The EPA has made the determination that Campbell County, Kentucky has a violating monitor for the 1-hour SO₂ NAAQS, and thus is designating a portion of this county as nonattainment. Additionally, and in association with the violating monitor in Campbell County, Kentucky, the EPA is also designating a portion

of Clermont County, Ohio as nonattainment for the 1-hour SO₂ NAAQS. Because of the nonattainment designation, the Commonwealth of Kentucky is obligated under the CAA to submit a State Implementation Plan for the Campbell County area. However, the EPA understands that for the Campbell County, Kentucky nonattainment area, the emissions source associated with the violation monitored in Campbell County is located in Ohio. Accordingly, we expect Ohio will address this source as part of their state implementation planning. The EPA will work with Ohio to ensure the required nonattainment area SIP addresses the air quality impact on the citizens of Kentucky. With regard to size of the boundary for the Kentucky portion of this area, the EPA has reevaluated its intended boundary determination, and has revised this boundary. More information on EPA's technical analysis for this area and revised boundary determination for Campbell County, Kentucky can be found in EPA's TSD for Kentucky.

3.2.9.2. Steubenville, OH-WV Area

Comment: The WV Division of Air Quality (DAQ) has performed additional technical analysis and refined the related nonattainment area boundaries. Therefore, we are now recommending that EPA revise its initial Nonattainment Area Designations for West Virginia. Our recommendations are primarily based upon the five-factor analysis detailed in EPA's March 2011 guidance. In the Steubenville OH-WV area, all of the violating monitors in Brooke County WV and all significant sources of SO₂ emissions in Brooke County WV are located in the Cross Creek Tax District portion of Brooke County, WV. The West Virginia portion of the Steubenville, OH-WV non attainment area should be confined to the Cross Creek Tax District (within Brooke County).

EPA's Response: EPA concurs with this recommendation from DAQ. The additional information regarding monitor locations and emissions information (Tables 5 and 6 of the DAQ Five factor analysis document and related discussion in this document) was confirmed by EPA and supports a revised boundary for the WV portion of this nonattainment area specifically using a partial county boundary of Brooke County consisting of the Cross Creek Tax District. See the WV TSD for additional information.

3.2.9.3. Marshall, WV Area (previously called Wheeling, WV-OH)

Comment: The WV Division of Air Quality (DAQ) has performed additional technical analysis and refined the related nonattainment area boundaries. Therefore, we are now recommending that EPA revise its initial Nonattainment Area Designations for the West Virginia portion of this area. Our recommendations are primarily based upon the five-factor analysis detailed in EPA's March 2011 guidance. The West Virginia portion of the Wheeling, WV-OH nonattainment area should be confined to the Clay, Franklin and Washington Tax Districts all within Marshall County.

EPA's Response: EPA concurs with this recommendation from DAQ. The additional information from DAQ indicates that the violating monitor in Marshall county is located in the Washington Tax District and all significant SO₂ emission sources are located in Franklin Tax District (Tables 7 and 8 of the DAQ five factor analysis and related

discussion in this document). Clay tax district is located directly between Franklin and Washington Tax Districts. This information supports a revised boundary for the WV portion of this nonattainment area specifically using a partial county boundary of Marshall County consisting of the Clay, Franklin, and Washington Tax Districts within Marshall County. See the WV TSD for additional information.

Comment: The DAQ analysis indicates that a nearby significant source, which likely impacts the above area, seems to have been overlooked. Therefore, we recommend that Ohio Township (Monroe County, OH) be included in the final Wheeling, WV-OH nonattainment designation since it contains The Ormet Primary Aluminum facility. This facility is located less than 5 kilometers from the PPG Industries facility which is located in the recommended nonattainment area.

EPA's Response: The Ormet SO₂ source in Ohio Township, Monroe County, Ohio, is located approximately 25 km from the Marshall County, WV, monitor. As discussed by DAQ and confirmed by EPA this source emitted 2,442 tpy of SO₂ in 2008 and 2,471 tpy in 2011 (2008 NEI and draft 2011 NEI). As discussed in the TSD that accompanied this proposal, PPG Industries emitted 7,693 tpy (2008 NEI). Also while the Ormet facility is in close proximity to the PPG Industries facility, PPG Industries emits almost three times the amount of SO₂ emissions as Ormet and is also located within a jurisdictional border that is useful for bounding the nonattainment area. EPA did not propose to include the Ormet facility in the original nonattainment area and is not prepared based on the emissions information and other factors to include this source in the initial nonattainment area. We will make final designation decision for areas outside the Marshall County WV area in a subsequent round of designations. See the WV TSD and Ohio TSD for additional information.

Comment: The WV Division of Air Quality (DAQ) has performed additional technical analysis and recommends that EPA retain Mead Township in Belmont County Ohio in the Wheeling WV-OH Nonattainment Area. In particular although R.E. Burger power plant has ceased operations, emissions from this plant appear to have significantly impacted the air quality in Marshall County, WV during three year periods when monitored data showed violations of the NAAQS.

EPA's Response: EPA does not concur with this recommendation and is removing Mead Township from the nonattainment area. Additional information that responds to this comment can be found in our response to comment below which addresses a comment from Scott Nally of the Ohio Environmental Protection Agency. Additional information can be found in the Ohio and WV TSDs.

Comment: EPA is proposing to designate a portion of Belmont County, Ohio, nonattainment as part of the Wheeling WV-OH nonattainment area, as a result of violations occurring at a monitor in West Virginia. Upon further review of this recommendation, Ohio EPA urges EPA to designate all of Belmont County as unclassifiable. As recognized in both the West Virginia and Ohio technical support documents supplied by EPA, the only source in Ohio that may have been a significant

source is the R.E. Burger power plant. As indicated in Table 9 of Ohio's TSD, R.E. Burger represented just over 15,000 tpy out of over 66,700 tpy in the area in 2008. At that time the monitor in Ohio was at 105 ppb while the monitor in West Virginia was at 113 ppb. Since that time, emissions have decreased at the R.E. Burger plant to zero emissions in 2011 and 2012. This is the result of the permanent shutdown of two larger units (156 MW each) and the cold storage of two smaller units (94 MW each). Since the shutdown and cold storage, the Ohio monitor has shown attainment while the West Virginia monitor has continued to show nonattainment. It is Ohio's belief that any future consideration of Belmont County sources should be a part of the upcoming unclassifiable planning; therefore, we recommend an unclassifiable designation for all of Belmont County.

EPA's Response: EPA has reviewed the SO₂ emissions data reported to the Clean Air Markets Division (CAMD) for the R.E. Burger plant, 2005-2012. These data confirm the emissions information in Ohio's comment.

The First Energy R.E. Burger power plant, in Shadyside, Ohio, is located two kilometers from the Marshall County monitor in Moundsville, West Virginia, and about seven kilometers from the Belmont County monitor. Given this proximity, EPA carefully evaluated this source as a potential contributor to the monitored SO₂ concentrations. On March 13, 2013, Ohio informed EPA that the R.E. Burger power plant had emitted no SO₂ in 2011 or 2012. Two of its four units (Units 7 and 8) had shut down permanently and enforceably in 2010. The remaining two smaller units (Units 5 and 6) are in cold storage. Cold storage is not a federally enforceable shutdown; those units currently retain the legal right to restart without obtaining a new permit. However, as discussed below, EPA believes that these units are unlikely to resume operation, and furthermore EPA believes that these units are unlikely to operate at a level that would warrant treating the source as contributing to the violation at the Marshall County monitor. In 2011, when the R.E. Burger power plant reported zero SO₂ emissions to EPA CAMD, the Moundsville monitor still exceeded the 2010 SO₂ NAAQS (79 ppb).

The table below shows the SO₂ emissions for Units 5 and 6 at the R.E. Burger power plant as reported to CAMD for the years starting in 2005. While these units had emissions of several hundred tons each in 2005 and 2007, emissions for all other years since 2005 have been under 100 tons for each unit, with emissions in most years being zero. By comparison, the larger two units at R.E. Burger (Units 7 and 8) emitted a combined total of 14,952 tons in 2008, a level that was close to average for these units for the years before they shut down by the beginning of 2011. These emissions from these larger units are prohibited from recurring by the permanent and enforceable shutdown of these units. The only emissions which might hypothetically resume are from Units 5 and 6, the smaller units at the plant, which have been effectively shut down since 2008, and which historically emitted less than ten percent, and most recently no more than about one percent, of the larger units' SO₂ emissions. It is unlikely that the two smaller units will restart, and if they do, they are unlikely to contribute significantly to the nonattainment values. Since these units were shut down before the larger units were shut down, and since these units have been in cold storage for two years after the larger units

were shut down, the shutdown of the larger units is not expected to result in load being shifted to the smaller units. The requirements of the Clean Air Interstate Rule (CAIR), which would make it even more expensive to operate these units, provide added incentive for FirstEnergy to continue keeping these units inoperative. Ohio provided further information about this facility in May 2013. Ohio staff spoke with representatives of FirstEnergy, who confirmed that they have no intention of restarting Units 5 and 6. The company is keeping the two units in “cold storage” rather than permanently shutting them down in order to maintain receiving allowances for use in other facilities, and for the income tax advantages of retaining the units on cold storage status. Units 5 and 6 are 63 years old, the R.E. Burger power plant currently has no coal onsite, and economics dictate that FirstEnergy is unlikely to restart these units. Therefore, EPA believes that the R.E. Burger power plant is not currently contributing and is not likely to contribute in the future to the Marshall WV nonattainment area, and EPA agrees with Ohio’s recommendation that Mead Township, Belmont County, should not be designated nonattainment for the 2010 SO₂ NAAQS.

Table. Annual SO₂ Emissions for Units 5 and 6 at the R.E. Burger Power Plant (As reported to CAMD)

Unit ID	Year	SO ₂ (tons)	Heat Input (MMBtu)
5	2005	433.5	236316.6
6	2005	347.1	190433.0
5	2006	0	0
6	2006	0	0
5	2007	723.2	506796.2
6	2007	671.2	471102.9
5	2008	81.3	69613.9
6	2008	93.2	79246.6
5	2009	0	0
6	2009	0	0
5	2010	3.0	2483.4
6	2010	2.7	2239.9
5	2011	0	0
6	2011	0	0
5	2012	0	0
6	2012	0	0

Technical Support Document (TSD)

**Illinois
Area Designations For the
2010 SO₂ Primary National Ambient Air Quality Standard**

Summary

Pursuant to section 107(d) of the Clean Air Act (CAA), EPA must designate areas as either “nonattainment,” “attainment,” or “unclassifiable” for the 2010 one-hour sulfur dioxide (SO₂) primary national ambient air quality standard (NAAQS). The CAA defines a nonattainment area as one that does not meet the NAAQS or that contributes to poor air quality in a nearby area that does not meet the NAAQS. Table 1 below identifies the counties or portions of counties (or tribal areas) in Illinois that EPA intends to designate “nonattainment” for the primary 2010 SO₂ NAAQS.

Illinois submitted recommendations on June 2, 2011. On February 6, 2013, EPA sent out a letter with intended designations for Illinois. Illinois did not respond to EPA’s intended designation. Table 1 below lists Illinois’s June 2, 2011 recommendations and identifies the counties or portions of counties in Illinois that EPA is initially designating “nonattainment” based on monitored violations. EPA is not yet prepared to designate other areas in Illinois, and will address them in subsequent rounds of designation.

Table 1. Nonattainment Area Designations for Illinois

Area	Illinois Recommended Designation of Areas/ Counties	EPA's Designation of Areas/ Counties
Pekin, IL Tazewell County (partial) - Cincinnati Township, - Pekin Township Peoria County (partial) - Hollis Township	Nonattainment Unclassifiable	Nonattainment Nonattainment
Lemont, IL Cook County (partial) - Lemont Township Will County (partial) - Dupage Township - Lockport Township	Nonattainment Nonattainment	Nonattainment Nonattainment

Background

On June 3, 2010, EPA revised the primary SO₂ NAAQS (75 FR 35520, June 22, 2010) by establishing a new 1-hour standard at a level of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentration at each monitor in an area does not exceed 75 ppb, as determined in accordance with Appendix T of 40 CFR part 50. 40 CFR 50.17(a)-(b). EPA has determined that this is the level necessary to provide protection of public health with an adequate margin of safety, especially for children, the elderly and those with asthma. These groups are particularly susceptible to the health effects associated with breathing SO₂. The Agency is revoking the two prior primary standards of 140 ppb evaluated over 24-hours, and 30 ppb evaluated over an entire year because the standards will not add additional public health protection given a 1-hour standard at 75 ppb. Accordingly, EPA is not designating areas in this process on the basis of either of these two prior primary standards. Similarly, the secondary standard for SO₂ has not been revised, so EPA is not designating areas in this process on the basis of the secondary standard.

EPA's SO₂ Designation Approach

Section 107(d) of the CAA provides that not later than 1 year after promulgation of a new or revised NAAQS, state Governors may submit their recommendations for designations and boundaries to EPA. For the 2010 SO₂ NAAQS, this deadline was June 3, 2011. Section 107(d) also requires EPA to provide a notification to states of no less than 120-days prior to promulgating an initial area designation that is a modification of a state's recommendation. EPA has reviewed the State's recommendations and has notified the State Commissioner through letter signed by the Regional Administrator of any intended modifications. [While language in section 107 specifically addresses states, we intend to follow the same process for tribes, pursuant to section 301(d) of the CAA and Tribal Authority Rule (40 CFR Part 49). Therefore, we intend to designate tribal areas, in consultation with the tribes, on the same schedule as state designations.] If a State or Tribe did not submit designation recommendations, EPA is to promulgate the designations that it deems appropriate. If a state or tribal government disagrees with EPA's intended area designations, it had an opportunity to demonstrate why any proposed modification is inappropriate.

Designations guidance was issued by EPA through a March 24, 2011, memorandum from Stephen D. Page, Director, U.S. EPA, Office of Air Quality Planning and Standards, to Air Division Directors, U.S. EPA Regions I-X. This memorandum identifies factors EPA intends to evaluate in determining boundaries for areas designated nonattainment. These 5 factors include: 1) Air quality data; 2) Emissions and emissions-related data (location of sources and potential contribution to ambient SO₂ concentrations); 3) Meteorology (weather/transport patterns); 4) Geography/topography (mountain ranges or other air basin boundaries); and 5) Jurisdictional boundaries (e.g., counties, air districts, pre-existing nonattainment areas, reservations, metropolitan planning organization), among any other information deemed relevant to establishing appropriate area designations and boundaries for the 1-hour SO₂ NAAQS.

The March 24, 2011, designations guidance memo recommended that area boundaries be defaulted to the county boundary unless additional provided information justifies a larger or smaller boundary than that of the county. EPA believes it is appropriate to evaluate each potential area on a case-by-case basis, and to recognize that area-specific analyses conducted by states, tribes and/or EPA may support a different boundary than a default county boundary.

In this TSD, EPA discusses its review and technical analysis of the recommendations submitted by Illinois for designations of the 1-hour SO₂ standard and any modifications from these recommendations.

Definition of important terms used in this document:

- 1) **Designated nonattainment area** – an area which EPA has determined, based on a state recommendation and/or on the technical analysis included in this document, has violated the 2010 SO₂ NAAQS, based on the most recent three years of air quality monitoring data from 2009-2011, or contributes to a violation in a nearby area.
- 2) **Recommended nonattainment area** – an area that a state or tribal government has recommended to EPA to be designated as nonattainment.
- 3) **Violating monitor** – an ambient air monitor meeting all methods, quality assurance and citing criteria and requirements whose valid design value exceeds 75 ppb, as described in Appendix T of 40 CFR part 50.
- 4) **2010 SO₂ NAAQS** - 75 ppb, national ambient air quality standard for SO₂ promulgated in 2010. Based on the 3-year average of the 99th percentile of the annual distribution of daily maximum 1-hour average concentrations
- 5) **Design Value** – a statistic computed according to the data handling procedures of the NAAQS (in 40 CFR 50 Appendix T) that, by comparison to the level of the NAAQS, indicates whether the area is violating the NAAQS.

Technical analysis for the Lemont, IL Area

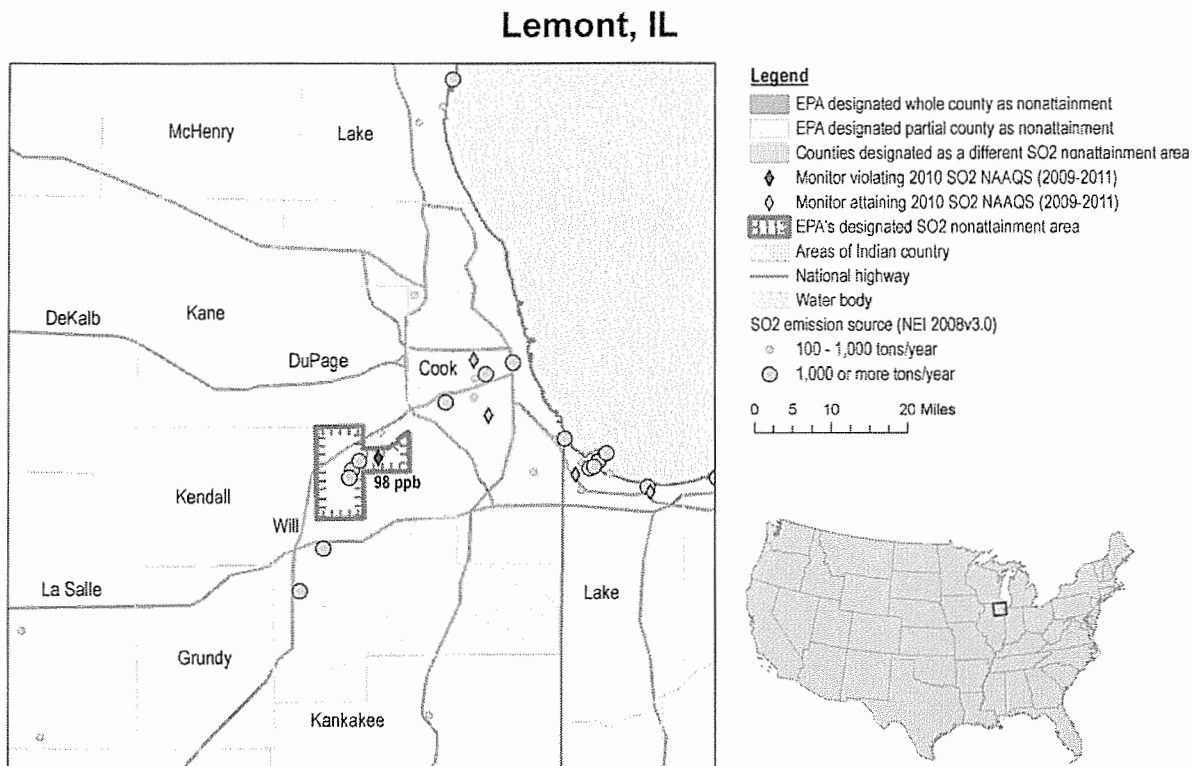
Introduction

This technical analysis for the Lemont, IL area identifies Cook County with a monitor, in Lemont, that violates the 2010 SO₂ NAAQS, and evaluates nearby counties for contributions to SO₂ concentrations in the area. EPA has evaluated this county and nearby counties based on the evidence for the factors recommended in the March 24, 2011 EPA guidance.

Figure 1 is a map of the area showing the locations and design values of air quality monitors in the area, and the counties surrounding any violating air quality monitors. Notably, a monitor in

Lemont Township in Cook County recorded a 2009 to 2011 design value of 98 ppb. Multiple other monitors in Cook County and a monitor in Will County showed design values below the standard, with values ranging from 18 to 30 ppb.

Figure 1. Map of sources and monitors in the Chicago area and the Lemont, IL nonattainment area



Illinois analyzed the sources that might be contributing to the monitored violation in Lemont. Based on this assessment, Illinois recommended that an area consisting of DuPage and Lockport Townships in Will County and Lemont Township in Cook County be designated as nonattainment. This recommendation reflected Illinois' view that no significant sources are located in Cook County near Lemont but that three significant sources are located nearby in Will County.

Based on EPA's technical analysis described below, EPA is initially designating a Lemont nonattainment area consisting of Lemont Township in Cook County and DuPage and Lockport Townships in Will County as nonattainment for the 2010 SO₂ NAAQS. Areas and sources that we are not yet prepared to conclude are contributing to monitored violations or to other possible violations are not included in this initial nonattainment area. Such sources and areas will be further addressed in a subsequent round of final designations.

Detailed Assessment***Air Quality Data***

This factor considers the SO₂ air quality monitoring data, including the design values (in ppb) calculated for all air quality monitors in the Chicago metropolitan area based on data for the 2009-2011 period.

The 2010 SO₂ NAAQS design values for the Chicago area within Illinois are shown in Table 2.

Table 2. Air Quality Data in the Chicago Area

County	State Recommended Nonattainment?	Monitor Air Quality System ID	Monitor Location	SO ₂ Design Value, 2009-2011 (ppb)
Cook	No	17-031-0050	41.7076, -87.5686	20*
	No	17-031-0063	41.877, -87.6343	18*
	No	17-031-0076	41.7514, -87.7135	24
	Yes	17-031-1601	41.6681, -87.9906	98
	No	17-031-4002	41.8552, -87.7525	30
	No	17-031-4201	42.1400, -87.7992	18*
Will	No	17-197-0013	41.46, -88.182	28*

*Data are incomplete. Value is determined from available data for instrument identified as POC 2. Monitors in Bold have the highest 2009-2011 design value in the respective county.

The Lemont monitor in Cook County shows a violation of the 2010 SO₂ NAAQS.

Emissions and Emissions-Related Data

Evidence of SO₂ emissions sources in the vicinity of a violating monitor is an important factor for determining whether a nearby area is contributing to a monitored violation. For this factor, EPA evaluated county level emission data for SO₂ and any growth in SO₂ emitting activities since the date represented by those emissions data.

Emissions

The most recent year for which national emissions information was compiled was 2008. Illinois did not provide more recent emissions information. Therefore, EPA relied on the 2008 National Emissions Inventory (NEI) emissions data (NEI08V3).

Table 3 shows total emissions of SO₂ (given in tons per year) for Cook County and for adjoining Will County. Table 3 also shows pertinent information for sources in these counties emitting greater than 100 tons per year of SO₂ according to the 2008 NEI.

Table 3. SO₂ Emissions in the Chicago Area (NEI08V3)

County	Facility in State Recommended N.A. Area?	Facility	Emissions NEI08V3 (tons per year)	Facility Location	Distance to Lemont Monitor (km)	Total County SO ₂ Emissions (tons per year)
Cook	No	Crawford Station	6,627 tpy	41.8278, -87.7236	28	19,346
	No	Fisk Station	4,486 tpy	41.8408, -87.6533	34	
	No	Corn Products	2,203 tpy	41.7751, -87.8224	18	
	No	Koppers	823 tpy	41.8206, -87.7487	26	
	No	O'Hare Airport	498 tpy	41.9772, -87.9044	35	
	No	Saint-Gobain Containers	345 tpy	41.6439, -87.6003	32	
	No	Carmeuse Lime	321 tpy	41.7056, -87.5438	37	
	No	Midway Airport	110 tpy	41.785, -87.7519	24	
Will	No	MWG Joliet Station	18,281 tpy	41.4947, -88.125	22	63,967
	Yes	MWG Will County Station	16,497 tpy	41.6344, -88.0592	7	
	No	Exxon Mobil	16,404 tpy	41.4138, -88.1835	33	
	Yes	Oxbow Midwest Calcining	6,205 tpy	41.6622, -88.0379	4	
	Yes	CITGO Petroleum	6,137 tpy	41.6444, -88.0559	6	

The sources in Cook County are at considerable distances from the violating monitor. For example, the closest source is Corn Products Corporation, at about 18 kilometers from the monitor, with emissions of about 2,300 tons per year, and the highest emitting source in Cook County, Midwest Generation's Crawford Station, is about 28 kilometers away, emitting about 6,600 tons per year. Based on the distance of these sources from the violating monitor, EPA is not yet prepared to conclude that these sources contribute to the Lemont monitor's design value. These sources will be further addressed in a subsequent round of designations.

Three of the sources in Will County are relatively close to the Lemont monitor and have sufficient emissions that Illinois recommended including the townships containing these sources in the Lemont nonattainment area. However, considering their emission levels and based on their distance from the monitor, EPA is not yet prepared to conclude that two other Will County sources, Midwest Generation's Joliet Station and the Exxon-Mobil refinery, are contributing to the Lemont monitor's design value. These two sources will also be further addressed in subsequent a round of designations.

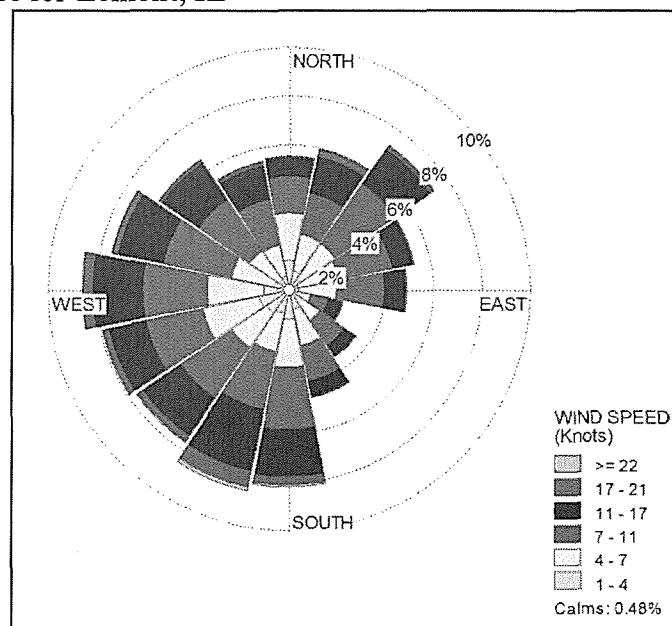
Emissions Controls

The emissions data used by EPA in this technical analysis and provided in Table 3 represent emissions levels taking into account any control strategies implemented on stationary sources in this area up to and including 2008. EPA has not received any additional information on emissions reductions resulting from controls put into place after 2008.

Meteorology (weather/transport patterns)

Evidence of source-receptor relationships between specific emissions sources and high SO₂ values at violating monitors is another important factor in determining the appropriate contributing areas and the appropriate extent of the nonattainment area. Figure 2 shows the prevalent wind direction for the Lemont, IL area.

Figure 2: Wind Rose for Lemont, IL



Source: IEPA Software: WRPLOT-Lakes Environmental Software

The wind rose above shows that winds are most likely to come from the south, west, and southwest directions, but also frequently come from all the northeast direction, and occasionally from the other directions. This shows that a source from any direction could contribute to the violation at the monitor. The three largest nearby emitters, MWG Will County Station, Oxbow Midwest Calcining, and CITGO Petroleum, are located to the west and southwest of the monitor, which are the frequent wind directions.

Geography/topography (mountain ranges or other air basin boundaries)

The Lemont area does not have any geographical or topographical barriers significantly limiting air pollution transport within its airshed. Therefore, this factor did not play a significant role in determining the nonattainment boundary.

Jurisdictional boundaries

Illinois does not have any current SO₂ nonattainment areas under the prior SO₂ NAAQS. Townships in Illinois have well established boundaries and are a suitable basis for defining nonattainment areas.

Other Relevant Information

EPA did not receive additional information relevant to establishing a nonattainment area boundary for this area.

Conclusion

Illinois has adequately justified an initial nonattainment area, based on the violating monitor in Cook County, which includes the Lemont Township containing the monitoring site and two townships in Will County, DuPage and Lockport Townships, with sources that contribute to the monitored violation. Based on the distance from the violating monitor and wind rose analysis, EPA is not yet prepared to conclude that other sources in Cook County outside Lemont Township, as well as the Midwest Generation Joliet plant and the Exxon-Mobil refinery in Will County, contribute to the Lemont monitor's design value. In a subsequent round of designations, EPA will make final designations decisions for areas and sources that are not currently included in the initial nonattainment area designation addressed in this TSD.

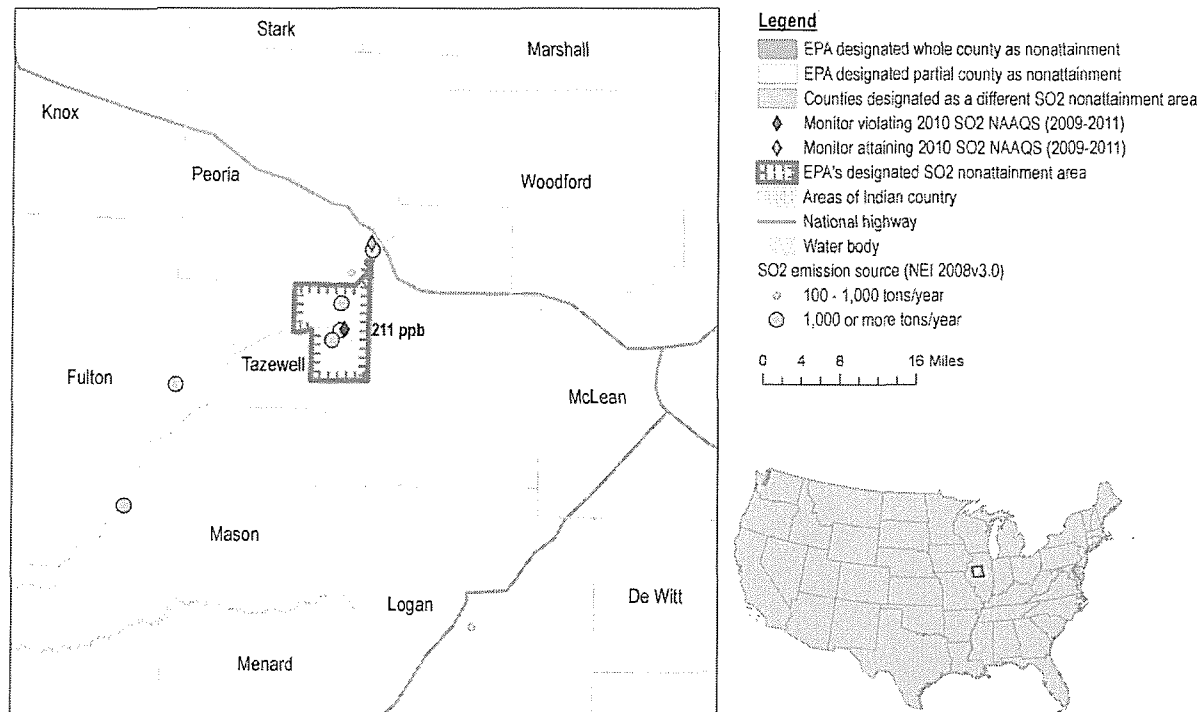
Technical analysis for the Pekin, IL Area

Introduction

This technical analysis for the Pekin, IL area identifies a Tazewell County monitor that violates the 2010 SO₂ NAAQS. EPA has evaluated this county and nearby counties based on the evidence for the factors recommended in the March 24, 2011 EPA guidance.

Figure 3 is a map of the area showing the location and the design value of the air quality monitor in the area, and the counties surrounding this air quality monitor. The monitor in Pekin (Tazewell County) recorded a 2009 to 2011 design value of 211 ppb. A monitor in Peoria County recorded a 2009 to 2011 design value of 36 ppb, based on incomplete data. No other SO₂ monitor is located in these or any neighboring counties.

Figure 3. Map of sources, monitors, and nonattainment area boundaries in the Pekin, IL area
Pekin, IL



Illinois analyzed the sources that might be contributing to the monitored violation in Pekin. Based on this assessment, Illinois recommended that an area consisting of Cincinnati and Pekin Townships in Tazewell County be designated as nonattainment.

EPA believes that Hollis Township in Peoria County also contributes to the violation monitored in Tazewell County. E.D. Edwards Station, a power plant operated by Ameren, is located in this township. This source emits approximately 11,000 tons of SO₂ per year, in a location that is about 4.5 kilometers in a direction that is periodically upwind of the Pekin monitor.

Based on EPA's technical analysis described below, and based on a monitored violation, EPA is initially designating a Pekin nonattainment area consisting of Cincinnati and Pekin Townships in Tazewell County and Hollis Township in Peoria County. Areas and sources that we are not yet prepared to conclude are contributing to the monitored violations are not included in this initial nonattainment area. Such areas and sources will be addressed in a subsequent round of final designations.

EPA received comments from Ameren and from the Illinois Environmental Regulatory Group objecting to the inclusion of Hollis Township in the nonattainment area, as well as comments from Citizens Against Ruining the Environment and the Respiratory Health Association generally supporting the intended designation. These comments are addressed in more detail in the response to comments document.

Detailed Assessment***Air Quality Data***

This factor considers the SO₂ air quality monitoring data, including the design value (in ppb) calculated for the air quality monitor in Tazewell County based on data for the 2009-2011 period. The only other monitor in this part of Illinois is located in Peoria County. The 2010 SO₂ NAAQS design values for the Tazewell and Peoria County monitors are shown in Table 4.

Table 4. Air Quality Data in the Pekin Area

County	State Recommended Nonattainment?	Monitor Air Quality System ID	Monitor Location	SO ₂ Design Value, 2009-2011 (ppb)
Peoria	No	17-143-0024	40.6874, -89.6069	36
Tazewell	Yes	17-179-0004	40.5565, -89.654	211

The Tazewell County monitor shows a violation of the 2010 SO₂ NAAQS. Therefore, some area in this county and possibly additional areas in surrounding counties must be designated nonattainment. The absence of a violating monitor alone is not a sufficient reason to eliminate nearby counties as candidates for inclusion in a nonattainment area.

Emissions and Emissions-Related Data

Evidence of SO₂ emissions sources in the vicinity of a violating monitor is an important factor for determining whether a nearby area is contributing to a monitored violation. For this factor, EPA evaluated county level emission data for SO₂ and any growth in SO₂ emitting activities since the date represented by those emissions data.

Emissions

The most recent year for which national emissions information was compiled was 2008. Illinois reported data indicating that emissions from pertinent sources in 2007 and 2009 were similar to emissions in 2008. Therefore, EPA relied on the 2008 National Emissions Inventory (NEI) emissions data (NEI08V3).

Table 5 shows total emissions of SO₂ (given in tons per year) for Tazewell County and for adjoining Peoria County. Table 5 also shows pertinent information for sources in these counties emitting greater than 100 tons per year of SO₂ according to the 2008 NEI.

Table 5. SO₂ Emissions in the Pekin Area (NEI08V3)

County	Facility Located in State Recommended Nonattainment Area?	Facility – Total SO ₂ Air Emissions NEI08V3 (tons per year)	Facility Location	Distance to Pekin Monitor (km)	Total County SO ₂ Emissions (tons per year)
Peoria	No*	Ameren – E.D. Edwards Stn – 11,224 tpy	40.5958, -89.6631	4	14,603
	No	ADM – 3049 tpy	40.6756, -89.6073	14	
	No	Keystone Steel & Wire – 138 tpy	40.6420, -89.6467	10	
Tazewell	Yes	MWG – Powerton Stn. – 22,355 tpy	40.5408, -89.6786	3	34,358
	Yes	Aventine Renewable Energy – 11,830 tpy	40.5553, -89.6629	1	

*This source is included in the nonattainment area that EPA is promulgating

The two significant sources in Tazewell County are located in Cincinnati and Pekin Townships, respectively, which Illinois has recommended including in the Pekin nonattainment area. Illinois did not recommend including any of Peoria County in this nonattainment area. However, EPA finds that Ameren's E.D. Edwards power plant is only 4 kilometers from the monitor and has significant emissions with potential to have significant impact on recorded concentrations at the monitor. This source is located in Hollis Township, and so this township warrants consideration for its contributions to the violation measured in Pekin. Based on their distance from the violating monitor, EPA is not yet prepared to conclude that the other sources in Peoria County contribute to the violating monitor's design value. These sources will be further addressed in a subsequent round of designations.

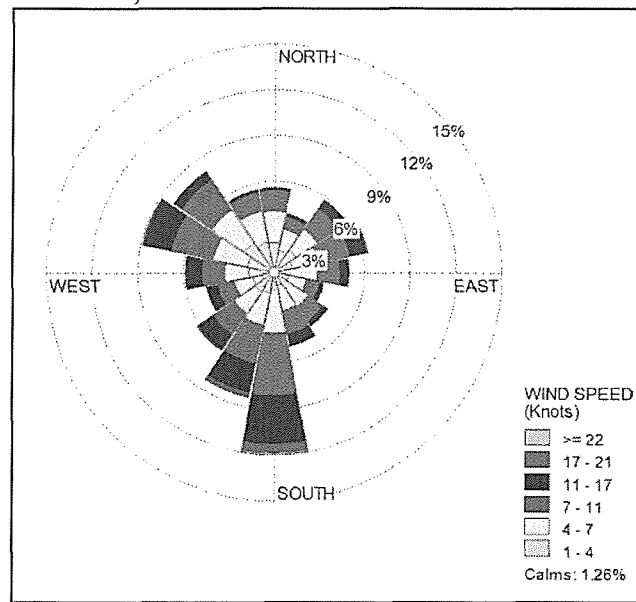
Emissions Controls

The emissions data used by EPA in this technical analysis and provided in Table 5 represent emissions levels taking into account any control strategies implemented on stationary sources in this area up to and including 2008. EPA has not received any additional information on emissions reductions resulting from controls put into place after 2008.

Meteorology (weather/transport patterns)

Evidence of source-receptor relationships between specific emissions sources and high SO₂ values at violating monitors is another important factor in determining the appropriate contributing areas and the appropriate extent of the nonattainment area. Figure 4 shows the prevalent wind direction for the Lemont, IL area.

Figure 4: Wind Rose for Pekin, IL



Source: IEPA Software: WRPLOT-Lakes Environmental Software

The wind rose above suggests that winds come most frequently from the south, somewhat frequently from the northwest, and occasionally from the other directions. Focusing on days when concentrations are above the level of the standard, winds from the north (including variable winds that at least in part include north winds) occur with sufficient frequency to suggest that nearby significant sources located north as well as west and southwest of the monitor are contributing to violations measured in Pekin. As discussed in more detail in the response to comments document, winds from the north (including variable winds that at least in part include north winds) also occur in particular at times when the standard is exceeded at the Pekin monitor.

Geography/topography (mountain ranges or other air basin boundaries)

The Pekin area does not have any geographical or topographical barriers significantly limiting air pollution transport within its airshed. Therefore, this factor did not play a significant role in determining the nonattainment boundary.

Jurisdictional boundaries

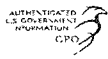
Illinois does not have any current SO₂ nonattainment areas under the prior SO₂ NAAQS. Townships in Illinois have well established boundaries and are a suitable basis for defining nonattainment areas.

Other Relevant Information

EPA did not receive additional information relevant to establishing a nonattainment area boundary for this area.

Conclusion

Illinois' recommendation to define the Pekin, IL nonattainment area to include Cincinnati and Pekin Townships of Tazewell County appropriately includes the portions of Tazewell County that are contributing to the measured violation. However, EPA has determined that the initial nonattainment area should also include Hollis Township in Peoria County, which includes Ameren's E.D. Edwards Station. This source has substantial emissions relatively close to the monitor measuring a violation, and analysis of wind information supports a finding of contribution of emissions from the direction of this source to the violating monitor. Therefore, EPA believes that Hollis Township of Peoria County warrants inclusion in the initial Pekin nonattainment area. Thus, after considering the factors described above, EPA is initially designating an area that includes Cincinnati and Pekin Townships in Tazewell County and Hollis Township in Peoria County as the Pekin, IL nonattainment area for the 2010 SO₂ NAAQS. In a subsequent round of designations, we will make final designations decisions for areas and sources that we are not yet prepared to conclude are contributing to the monitored violations or to other possible violations and that are not currently included in the initial nonattainment area designation addressed in this TSD.



(b) The Secretary must provide each agency by January 15 of each year with the format and guidelines for electronically submitting the agency's occupational injury and illness recordkeeping information.

(c) Each agency must submit to the Secretary by May 1, 2014, a list of all establishments. The list must include information about the department/agency affiliation, NAICS code, a street address, city, state and zip code. Federal agencies are also responsible for updating their list of establishments by May 1 of each year when they submit the annual report to the Secretary required by § 1960.71(a)(1).

* * * * *

■ 8. Add new § 1960.73 to read as follows:

§ 1960.73 Federal agency injury and illness recordkeeping forms.

(a) When filling out the OSHA Form 300 or equivalent, each agency must enter the employee's OPM job series number and job title in Column (c).

(b) When recording the injuries and illnesses of uncompensated volunteers, each agency must enter a "V" before the OPM job series number in Column (c) of the OSH Form 300 log or equivalent.

(c) Each agency must calculate the total number of hours worked by uncompensated volunteers.

[FR Doc. 2013-18457 Filed 8-2-13; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2013-0687]

Drawbridge Operation Regulation; Albemarle Sound to Sunset Beach, Atlantic Intracoastal Waterway (AICW), Wrightsville Beach, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the operation of the S.R. 74 Bridge, at mile 283.1, over the AICW, at Wrightsville Beach, NC. The deviation is necessary to facilitate electrical system and equipment upgrades to the bridge. This temporary deviation allows the drawbridge to remain in the closed to navigation position.

DATES: This deviation is effective from 7 p.m. on August 19, 2013 to 7 p.m. August 27, 2013.

ADDRESSES: The docket for this deviation, [USCG-2013-0687] is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Jim Rousseau, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398-6557, email James.L.Rousseau2@uscg.mil. If you have questions on reviewing the docket, call Barbara Hairston, Program Manager, Docket Operations, (202) 366-9826.

SUPPLEMENTARY INFORMATION: The North Carolina Department of Transportation, who owns and operates this bascule bridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.821(a)(4), to facilitate electrical system and mechanical equipment upgrades to the bridge.

Under the regular operating schedule, the draw for the S.R. 74 Bridge, at mile 283.1 over the AICW, at Wrightsville Beach, NC shall open on signal for commercial vessels at all times and on signal for pleasure vessels except between 7 a.m. and 7 p.m., need only open on the hour; and except for annual triathlon events that occur from September through November. The S.R. 74 Bridge has a temporary vertical clearance in the closed position of 18 feet above mean high water due to additional ongoing maintenance.

Under this temporary deviation, the drawbridge will be maintained in the closed to navigation position, beginning at 7 p.m., on Monday, August 19, 2013 until 7 p.m., on Tuesday August 20, 2013. In the event of inclement weather, the alternate dates and times will begin at 7 p.m., on Monday August 26, 2013 ending at 7 p.m., on Tuesday August 27, 2013. The bridge will operate under its normal operating schedule at all other times. The Coast Guard has carefully coordinated the restrictions with commercial and recreational waterway users.

Vessels able to pass under the bridge in the closed position may do so at

anytime and are advised to proceed with caution. The bridge will be able to open for emergencies but at a slower rate. There is no immediate alternate route for vessels transiting this section of the AICW but vessels may pass before and after the closure each day. The Coast Guard will also inform additional waterway users through our Local and Broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impacts caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: July 25, 2013.

Waverly W. Gregory, Jr.,
Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2013-18740 Filed 8-2-13; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-HQ-OAR-2012-0233; FRL 9841-4]

RIN 2060-AR18

Air Quality Designations for the 2010 Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes air quality designations for certain areas in the United States for the 2010 primary Sulfur Dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). The EPA is issuing this rule to identify areas that, based on recorded air quality monitoring data showing violations of the NAAQS, do not meet the 2010 SO₂ NAAQS and areas that contribute to SO₂ air pollution in a nearby area that does not meet the SO₂ NAAQS. At this time, the EPA is designating as nonattainment most areas in locations where existing monitoring data from 2009-2011 indicate violations of the 1-hour SO₂ standard. The EPA intends to address in separate future actions the designations for all other areas for which the agency is not yet prepared to issue designations and that are consequently not addressed in this final rule. The Clean Air Act (CAA) directs areas designated nonattainment by this rule to undertake certain planning and pollution control

activities to attain the NAAQS as expeditiously as practicable.
DATES: Effective Date: The effective date of this rule is October 4, 2013.
ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2012-0233. All documents in the docket are listed in the 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 www.regulations.gov or in hard copy at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. 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 Web site for this rulemaking at: <http://www.epa.gov/so2designations>. The Web site includes the EPA's final SO₂ 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 Rhonda Wright, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Planning Division, C539-04, Research Triangle Park, NC 27711, telephone (919) 541-1087, email at wright.rhonda@epa.gov.
SUPPLEMENTARY INFORMATION:
Regional Office Contacts:

Region I—Donald Dahl (617) 918-1657,
 Region II—Kenneth Fradkin (212) 637-3702,
 Region III—Ruth Knapp (215) 814-2191,
 Region IV—Lynorae Benjamin (404) 562-9040,
 Region V—John Summerhays (312) 886-6067,
 Region VI—Dayana Medina (214) 665-7241,
 Region VII—Larry Gonzalez (913) 551-7041,
 Region VIII—Crystal Ostigaard (303) 312-6602,
 Region IX—John Kelly (415) 947-4151, and
 Region X—Steve Body (206) 553-0782.
 The public may inspect the rule and state-specific technical support information at the following locations:

Regional offices	States
Dave Conroy, Chief, Air Programs Branch, EPA New England, 1 Congress Street, Suite 1100, Boston, MA 02114-2023, (617) 918-1661. Richard Ruvo, Chief, Air Planning Section, EPA Region II, 290 Broadway, 25th Floor, New York, NY 10007-1866, (212) 637-4014. Cristina Fernandez, Associate Director, Office of Air Program Planning, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2187, (215) 814-2178. R. Scott Davis, Chief, Air Planning Branch, EPA Region IV, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, 12th Floor, Atlanta, GA 30303, (404) 562-9127. John Mooney, Chief, Air Programs Branch, EPA Region V, 77 West Jackson Street, Chicago, IL 60604, (312) 886-6043. Guy Donaldson, Chief, Air Planning Section, EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202, (214) 665-7242. Joshua A. Tapp, Chief, Air Programs Branch, EPA Region VII, 11201 Renner Blvd., Lenexa, KS 66129, (913) 551-7606. Gail Fallon, Acting Unit Chief, Air Quality Planning Unit, EPA Region VIII, 1595 Wynkoop Street, Denver, CO 80202-1129, (303) 312-6281. Doris Lo, Air Planning Office, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972-3959. Debra Suzuki, Manager, State and Tribal Air Programs, EPA Region X, Office of Air, Waste, and Toxics, Mail Code OAQ-107, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553-0985.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. New Jersey, New York, Puerto Rico and Virgin Islands. Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia. Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee. Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin. Arkansas, Louisiana, New Mexico, Oklahoma and Texas. Iowa, Kansas, Missouri and Nebraska. Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. American Samoa, Arizona, California, Guam, Hawaii, Nevada and Northern Mariana Islands. Alaska, Idaho, Oregon and Washington.

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I. Preamble Glossary of Terms and Acronyms

The following are abbreviations of terms used in the preamble.

APA	Administrative Procedure Act
CAA	Clean Air Act
CFR	Code of Federal Regulations
DC	District of Columbia
EO	Executive Order
EPA	Environmental Protection Agency
FR	Federal Register
NAAQS	National Ambient Air Quality Standards
NTTAA	National Technology Transfer and Advancement Act
OMB	Office of Management and Budget
SO ₂	Sulfur Dioxide
SO _x	Sulfur Oxides
RFA	Regulatory Flexibility Act
SIP	State Implementation Plan
UMRA	Unfunded Mandate Reform Act of 1995
TAR	Tribal Authority Rule
TSD	Technical Support Document
U.S.	United States
VCS	Voluntary Consensus Standards

II. What is the purpose of this document?

The purpose of this action is to announce and promulgate designations and boundaries for certain areas of the country not meeting the 2010 SO₂ NAAQS based on available information, in accordance with the requirements of the CAA. The initial list of areas being designated nonattainment in each state and the boundaries of each area appear in the tables within the regulatory text.

This notice identifies the 29 initial areas being designated as nonattainment areas for the 2010 SO₂ NAAQS. The basis for designating each area as "nonattainment" is monitored air quality data from calendar years 2009–2011 indicating a violation of the NAAQS in the area. For these areas being designated nonattainment, the CAA directs states to develop State Implementation Plans (SIPs) that meet the requirements of sections 172(c) and 191–192 of the CAA and provide for attainment of the NAAQS as expeditiously as practicable, but no later than October 4, 2018. The CAA directs states to submit these SIPs to the EPA within 18 months of the effective date of these designations, i.e., by April 6, 2015.

III. What is sulfur dioxide?

SO₂ is one of a group of highly reactive gases known as "oxides of sulfur" (SO_x). The largest sources of SO₂ emissions are from fossil fuel combustion at power plants (73 percent) and other industrial facilities (20 percent). Smaller sources of SO₂ emissions include industrial processes, such as extracting metal from ore, and the burning of high sulfur containing

fuels by locomotives, large ships and non-road equipment. SO₂ is linked with a number of adverse effects on the respiratory system.

IV. What is the 2010 SO₂ NAAQS and what are the health concerns that it addresses?

The Administrator signed a final rule revising the primary SO₂ NAAQS on June 2, 2010. The rule was published in the *Federal Register* on June 22, 2010 (75 FR 35520), and became effective on August 23, 2010. Based on the Administrator's review of the air quality criteria for oxides of sulfur and the primary NAAQS for oxides of sulfur as measured by SO₂, the EPA revised the primary SO₂ NAAQS to provide requisite protection of public health with an adequate margin of safety. Specifically, the EPA established a new 1-hour SO₂ standard at a level of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations is less than or equal to 75 ppb, as determined in accordance with Appendix T of 40 CFR part 50. 40 CFR 50.17(a)–(b). The EPA also established provisions to revoke both the existing 24-hour and annual primary SO₂ standards, subject to certain conditions. 40 CFR 50.4(e).

Current scientific evidence links short-term exposures to SO₂, ranging from 5 minutes to 24 hours, with an array of adverse respiratory effects including bronchoconstriction and increased asthma symptoms. These effects are particularly important for asthmatics at elevated ventilation rates (e.g., while exercising or playing). Studies also show a connection between short-term exposure and increased visits to emergency departments and hospital admissions for respiratory illnesses, particularly in at-risk populations including children, the elderly and asthmatics.

The EPA's NAAQS for SO₂ is designed to protect against exposure to the entire group of SO_x. SO₂ is the component of greatest concern and is used as the indicator for the larger group of gaseous SO_x. Other gaseous SO_x (e.g., SO₃) are found in the atmosphere at concentrations much lower than SO₂.

Emissions that lead to high concentrations of SO₂ generally also lead to the formation of other SO_x. Control measures that reduce SO₂ can generally be expected to reduce people's exposures to all gaseous SO_x. This may also have the important co-benefit of reducing the formation of fine sulfate particles, which pose significant public health threats. SO_x can react with other

compounds in the atmosphere to form small particles. These particles penetrate deeply into sensitive parts of the lungs and can cause or worsen respiratory disease, such as emphysema and bronchitis, and can aggravate existing heart disease, leading to increased hospital admissions and premature death.¹ The EPA's NAAQS for particulate matter are designed to provide protection against these health effects.

V. What are the CAA requirements for air quality designations and what action has the EPA taken to meet these requirements?

After the promulgation of a new or revised NAAQS, the EPA is required to designate areas as "nonattainment," "attainment," or "unclassifiable," pursuant to section 107(d)(1) of the CAA.

The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d) of the CAA. The CAA requires the EPA to complete the initial designations process within 2 years of promulgating a new or revised standard. If the Administrator has insufficient information to make these designations by that deadline, the EPA has the authority to extend the deadline for completing designations by up to 1 year. On July 27, 2012, the EPA announced that it had insufficient information to complete the designations for the 1-hour SO₂ standard within 2 years and extended the designations deadline to June 3, 2013.

At this time, the EPA is initially designating as nonattainment most areas in locations where existing monitoring data from 2009–2011 indicate violations of the 1-hour SO₂ standard. In some cases, we have had to use data from a different three-year period or are still evaluating whether data from 2009–2011 are influenced by exceptional events. In separate future actions, the EPA intends to address the designations for all other areas for which the agency is not yet prepared to issue designations and that are consequently not addressed in this final rule. With input from a diverse group of stakeholders, the EPA has developed a comprehensive implementation strategy for the future SO₂ designations actions that focuses resources on identifying and addressing unhealthy levels of SO₂ in areas where people are most likely to be exposed to violations of the standard. For

¹ See Fact Sheet Revisions to the Primary National Ambient Air Quality Standard, Monitoring Network, and Data Reporting Requirements for Sulfur Dioxide at <http://www.epa.gov/airquality/sulfurdioxide/pdfs/20100602fs.pdf>.

informational purposes, the strategy is available at: <http://www.epa.gov/airquality/sulfurdioxide/implement.html>. The EPA plans to continue to work closely with state, tribal and local air quality management agencies to ensure health-protective, commonsense implementation of the 1-hour SO₂ NAAQS.

By not later than 1 year after the promulgation of a new or revised NAAQS, CAA section 107(d)(1)(A) provides that each state governor is required to recommend air quality designations, including the appropriate boundaries for areas, to the EPA. The EPA reviews those state recommendations and is authorized to make any modifications the Administrator deems necessary. The statute does not define the term "necessary," but the EPA interprets this to authorize the Administrator to modify designations that did not meet the statutory requirements or were otherwise inconsistent with the facts or analysis deemed appropriate by the EPA. If the EPA is considering modifications to a state's initial recommendation, the EPA is required to notify the state of any such intended modifications to its recommendation not less than 120 days prior to the EPA's promulgation of the final designation. During this period of no less than 120 days, if the state does not agree with the EPA's modification, it has an opportunity to respond to the EPA and to demonstrate why it believes the modification proposed by the EPA is inappropriate, as contemplated by section 107(d)(1)(B)(ii). Even if a state fails to provide any recommendation for an area, in whole or in part, the EPA still must promulgate a designation that the Administrator deems appropriate, pursuant to section 107(d)(1)(B)(ii).

Section 107(d)(1)(A)(i) of the CAA defines a nonattainment area as any area that does not meet an ambient air quality standard or that is contributing to ambient air quality in a nearby area that does not meet the standard. If an area meets either prong of this definition, then the EPA is obligated to designate the area as "nonattainment."

The EPA believes that section 107(d) provides the agency with discretion to determine how best to interpret the terms in the definition of a nonattainment area (e.g., "contributes to" and "nearby") for a new or revised NAAQS, given considerations such as the nature of a specific pollutant, the types of sources that may contribute to violations, the form of the standards for the pollutant, and other relevant information. In particular, the EPA believes that the statute does not require

the agency to establish bright line tests or thresholds for what constitutes "contribution" or "nearby" for purposes of designations.²

Similarly, the EPA believes that the statute permits the EPA to evaluate the appropriate application of the term "area" to include geographic areas based upon full or partial county boundaries, and contiguous or non-contiguous areas, as may be appropriate for a particular NAAQS. For example, section 107(d)(1)(B)(ii) explicitly provides that the EPA can make modifications to designation recommendations for an area "or portions thereof," and under section 107(d)(1)(B)(iv) a designation remains in effect for an area "or portion thereof" until the EPA redesignates it.

Designation activities for federally-recognized tribal governments are covered under the authority of section 301(d) of the CAA. This provision of the CAA authorizes the EPA to treat eligible tribes in a similar manner as states. Pursuant to section 301(d)(2), the EPA promulgated regulations, known as the Tribal Authority Rule (TAR), on February 12, 1999. 63 FR 7254, codified at 40 CFR part 49. That rule specifies those provisions of the CAA for which it is appropriate to treat tribes in a similar manner as states. Under the TAR, tribes may choose to develop and implement their own CAA programs, but are not required to do so. The TAR also establishes procedures and criteria by which tribes may request from the EPA a determination of eligibility for such treatment. The designations process contained in section 107(d) of the CAA is included among those provisions determined to be appropriate by the EPA for treatment of tribes in the same manner as states. Under the TAR, tribes generally are not subject to the same submission schedules imposed by the CAA on states. As authorized by the TAR, tribes may seek eligibility to submit designation recommendations to the EPA. In addition, CAA section 301(d)(4) gives the EPA discretionary authority, in cases where it determines that treatment of tribes as identical to states is "inappropriate or administratively infeasible," to provide for direct administration by regulation to achieve the appropriate purpose.

To date, six tribes have applied under the TAR for eligibility to submit its own recommendations under section 107(d). Nonetheless, the EPA invited all tribes to submit recommendations concerning designations for the 2010 SO₂ NAAQS. The EPA worked with the tribes that

requested an opportunity to submit designation recommendations. Tribes were provided an opportunity to submit their own recommendations and supporting documentation and could also comment on state recommendations and the EPA modifications.

Designation recommendations and supporting documentation were submitted by most states and several tribes to the EPA by June 3, 2011. After receiving these recommendations, and after reviewing and evaluating each recommendation, the EPA provided a response to the states and tribes on February 7, 2013.³ In these letter responses, we indicated whether the EPA intended to make modifications to the initial state or tribal recommendations and explained the EPA's reasons for making any such modifications. For the majority of the areas, the EPA agreed with the state's recommended boundary. The EPA requested that states and tribes respond to any proposed EPA modifications by April 8, 2013. The EPA received comments from some states suggesting changes to the EPA's proposed modifications and providing additional information. The EPA evaluated these comments, and all of the timely supporting technical information provided. As a result, and based on that input and analysis, some of the final designations reflect further modifications to the initial state recommendations. The state and tribal letters, including the initial recommendations, the EPA's February 2013 responses to those letters, any modifications, and the subsequent state comment letters, are in the docket for this action.

Although not required by section 107(d) of the CAA, the EPA also provided an opportunity for members of the public to comment on the EPA's February 2013 response letters. In order to gather additional information for the EPA to consider before making final designations, the EPA published a notice on February 15, 2013 (78 FR 1124) which invited the public to comment on the EPA's intended designations. In the notice, the EPA stated that public comments must be received on or before March 18, 2013. The EPA received several requests from stakeholders for additional time to prepare their comments. Some of the requesters noted that the original 30-day comment period was insufficient time to

² This view was confirmed in *Catawba County v. EPA*, 571 F.3d 20 (DC Cir. 2009).

³ As indicated in the February 2013 letters, the EPA is not yet prepared to designate any areas in Indian country. The EPA intends to address the designations for these areas in separate future actions.

review the EPA's responses to states' and tribes' recommended designations and to compile meaningful responses due to the complexity of the issues impacting certain areas. Taking that into consideration, the EPA extended the public comment period to April 8, 2013. State and tribal initial recommendations and the EPA's responses, including modifications, were posted on a publically accessible Web site (<http://www.epa.gov/so2designations>). Timely comments from the public and the EPA's responses to significant comments are in the docket for this action.

VI. What guidance did the EPA issue and how did the EPA apply the statutory requirements and applicable guidance to determine area designations and boundaries?

In the notice of proposed rulemaking for the revised SO₂ NAAQS (74 FR 64810; December 8, 2009), the EPA issued proposed guidance on its approach to implementing the standard, including its approach to initial area designations. The EPA solicited comment on that guidance and, in the notice of final rulemaking (75 FR 35520; June 22, 2010), provided further guidance concerning implementation of the standard and how to identify nonattainment areas and boundaries for the SO₂ NAAQS. Subsequently, on March 24, 2011, the EPA provided additional designations guidance to assist states with making their recommendations for area designations and boundaries.⁴ In that guidance, the EPA recommended that monitoring data from the most recent three consecutive years be used to identify a violation of the SO₂ NAAQS. This is appropriate because the form of the SO₂ NAAQS is calculated as a 3-year average of the 99th percentile of the yearly distribution of 1-hour daily maximum SO₂ concentrations (specifically the most recent 3 consecutive years).⁵ The EPA is basing these initial final designations on monitored SO₂ concentrations from Federal Reference Method and Federal Equivalent Method monitors that are sited and operated in accordance with 40 CFR Parts 50 and 58. The EPA notes that data from 2008–2010 were the most recent data available to states and tribes when they made their recommendations to the EPA in June 2011. Accordingly,

⁴ See, "Area Designations for the 2010 Revised Primary Sulfur Dioxide National Ambient Air Quality Standards," memorandum to Regional Air Division Directors, Regions I–X, from Stephen D. Page, dated March 24, 2011.

⁵ This notice refers to monitoring data for "calendar years 2009–2011" which includes data from January 2009 through December 2011.

although the determination of whether an area violates the standard was based on 2009–2011 data, the EPA considered state recommendations and data from 2008–2010, as appropriate, in determining boundaries for nonattainment areas.

In the guidance, the EPA stated that the perimeter of a county containing a violating monitor would be the initial presumptive boundary for nonattainment areas, but also stated that the state, tribe and/or the EPA could conduct additional area-specific analyses that could justify establishing either a larger or smaller area. The EPA indicated that the following factors should be considered in an analysis of whether to exclude portions of a county and whether to include additional nearby areas outside the county as part of the designated nonattainment area: (1) Air quality data; (2) emissions-related data; (3) meteorology; (4) geography/topography; and (5) jurisdictional boundaries, as well as other available data. States and tribes may identify and evaluate other relevant factors or circumstances specific to a particular area.

Most states and several tribes submitted their designations recommendations in June 2011. In each case, the EPA reviewed the state recommendations and, where appropriate, the EPA accepted the state's recommendations. However, where the EPA determined that changes were necessary to a state's initial recommendation, we conveyed those preliminary determinations to the state in February 2013, and have worked with states to further review appropriate boundaries.

VII. What air quality data has the EPA used?

The final SO₂ designations contained in this action are based upon violations of the NAAQS determined by air quality monitoring data from calendar years 2009–2011, except where it was necessary or appropriate to use a different three-year period. The form of the standard requires a calculation of monitoring values from 3 consecutive years. The 1-hour primary standard is violated at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentrations exceeds 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. For comparison to the level of the standard, ambient air quality shall be measured by a reference method based on appendix A or A–1, or by a Federal Equivalent

Method designated in accordance with 40 CFR part 53.

VIII. How do designations affect Indian Country?

All counties, partial counties or Air Quality Control Regions listed in the tables within the regulatory text are designated as indicated. For the first round of SO₂ designations, the EPA is only designating certain nonattainment areas shown to be violating the NAAQS based on monitored data. There are no areas in Indian Country being designated nonattainment at this time. All remaining areas, including areas of Indian Country, for which the EPA is not yet prepared to issue final designations will be addressed in a subsequent round of designations.

IX. Where can I find information forming the basis for this rule and exchanges between the EPA, States and tribes related to this rule?

Information providing the basis for this action are provided in several technical support documents (TSDs), a response to comments document (RTC) and other information in the docket. The TSDs, RTC, applicable EPA's guidance memoranda, copies of correspondence regarding this process between the EPA and the states, tribes and other parties, are available for review at the EPA Docket Center listed above in the ADDRESSES section of this document and on the agency's SO₂ Designations Web site at <http://www.epa.gov/so2designations>. Area-specific questions can be addressed to the EPA Regional Offices.

X. Statutory and Executive Order Reviews

Upon promulgation of a new or revised NAAQS, the CAA requires the EPA to designate areas as attaining or not attaining the NAAQS. The CAA then specifies requirements for areas based on whether such areas are attaining or not attaining the NAAQS. In this final rule, the EPA assigns designations to selected areas as required.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action responds to the CAA requirement to promulgate air quality designations after promulgation of a new or revised NAAQS. This type of action is exempt from review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (67 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This action responds to the requirement to promulgate air quality designations after promulgation of a new or revised NAAQS. This requirement is prescribed in the CAA section 107 of title 1. This action does not establish any new information collection apart from that already required by law.

C. Regulatory Flexibility Act

This final rule is not subject to the Regulatory Flexibility Act (RFA), which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. This action is not subject to notice-and-comment requirements under the APA or any other statute because the action is not subject to the APA. CAA section 107(d)(2)(B) does not require the EPA to issue a notice of proposed rulemaking before issuing this final action.

D. Unfunded Mandates Reform Act

This action contains no federal mandate under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local or tribal governments or the private sector. The action imposes no enforceable duty on any state, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. It does not create any additional requirements beyond those of the CAA and SO₂ NAAQS (40 CFR 50.17); therefore, no UMRA analysis is needed. This action establishes nonattainment designations for certain areas of the country for the 2010 SO₂ NAAQS. The CAA requires states to develop plans, including control measures, based on the designations for areas within the state.

The EPA believes that any new controls imposed as a result of this action will not cost in the aggregate \$100 million or more annually. Thus, this federal action will not impose

mandates that will require expenditures of \$100 million or more in the aggregate in any 1 year.

E. Executive Order 13132: Federalism

This final action does not have federalism implications. It will 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. The CAA establishes the process whereby states take primary responsibility in developing plans to meet the SO₂ NAAQS in areas designated nonattainment by this action. This action will not modify the relationship of the states and the EPA for purposes of developing programs to attain and maintain the SO₂ NAAQS. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action concerns the designation of certain areas as nonattainment for the 2010 SO₂ NAAQS, but no areas of Indian Country are being designated by this action. Because this action does not have tribal implications, Executive Order 13175 does not apply.

Although Executive Order 13175 does not apply to this rule, the EPA communicated with tribal leaders and environmental staff regarding the designations process. The EPA also sent individualized letters to all federally recognized tribes to explain the designation process for the 2010 SO₂ NAAQS, to provide the EPA designations guidance, and to offer consultation with the EPA. The EPA provided further information to tribes through presentations at the National Tribal Forum and through participation in National Tribal Air Association conference calls. The EPA also sent individualized letters to all federally recognized tribes that submitted recommendations to the EPA about the EPA's intended designations for the SO₂ standards and offered tribal leaders the opportunity for consultation. These communications provided opportunities for tribes to voice concerns to the EPA about the general designations process for the 2010 SO₂ NAAQS, as well as concerns specific to a tribe, and informed the EPA about key tribal

concerns regarding designations as the rule was under development.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not an economically significant regulatory action as defined in Executive Order 12866. While not subject to the Executive Order, this final action may be especially important for asthmatics, including asthmatic children, living in SO₂ nonattainment areas because respiratory effects in asthmatics are among the most sensitive health endpoints for SO₂ exposure. Because asthmatic children are considered a sensitive population, the EPA evaluated the potential health effects of exposure to SO₂ pollution among asthmatic children as part of the EPA's prior action establishing the 2010 SO₂ NAAQS. These effects and the size of the population affected are summarized in the EPA's final SO₂ NAAQS rules. See <http://www.epa.gov/ttn/naaqs/standards/so2/fr/20100622.pdf>.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA of 1995, Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, the EPA did not consider the use of any VCS.

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

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs

federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the U.S.

The CAA requires that the EPA 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 national primary or secondary ambient air quality standard for the pollutant.” By designating as nonattainment areas where available information indicate a violation of the 2010 SO₂ NAAQS or a contribution to a nearby violation, this action protects all those residing, working, attending school, or otherwise present in those areas regardless of minority or economic status.

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population.

K. Congressional Review Act

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 U.S. The 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 U.S. 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). This rule will be effective October 4, 2013.

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 designating areas for the 2010 SO₂ NAAQS is “nationally applicable” within the meaning of section 307(b)(1). This final action establishes designations for areas across the U.S. for the 2010 SO₂ NAAQS. At the core of this final action is the EPA’s interpretation of the definition of nonattainment under section 107(d)(1) of the CAA, and its application of that interpretation to areas across the country. For the same reasons, the Administrator also is 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 apply to 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 DC 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: July 25, 2013.

Gina McCarthy,
EPA Administrator.

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

PART 81—DESIGNATIONS 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

§ 81.301 [Amended]

■ 2. Section 81.301 is amended by revising the table heading for “Alabama—Sulfur Dioxide” to read “Alabama—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.302 [Amended]

■ 3. Section 81.302 is amended by revising the table heading for “Alaska—SO₂” to read “Alaska—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

■ 4. Section 81.303 is amended as follows:

■ a. By revising the table heading for “Arizona—SO₂” to read “Arizona—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”;

■ b. By adding a new table entitled “Arizona—2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Arizona—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§ 81.303 Arizona.

* * * * *

ARIZONA—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
Hayden, AZ ¹ Gila County (part) The portions of Gila County that are bounded by: T4S, R14E; T4S, R15E; T4S, R16E; T5S, R15E; T5S, R16E Pinal County (part)	10–4–13	Nonattainment.

ARIZONA—2010 SULFUR DIOXIDE NAAQS (PRIMARY)—Continued

Designated area	Designation	
	Date	Type
The portions of Pinal County that are bounded by: T4S, R14E; T4S, R15E; T4S, R16E; T5S, R14E; T5S, R15E; T5S, R16E; T6S, R14E; T6S, R15E; T6S, R16E Miami, AZ ¹	10-4-13	Nonattainment.
Gila County (part) The portions of Gila County that are bounded by: T2N, R14E; T2N, R15E; T1N, R13E; T1N, R14E; T1N, R15E; T1S, R14E; T1S, R14 1/2E; T1S, R15E		

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

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§ 81.304 [Amended]

■ 5. Section 81.304 is amended by revising the table heading for “Arkansas—SO₂” to read “Arkansas—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.305 [Amended]

■ 6. Section 81.305 is amended by revising the table heading for “California—SO₂” to read “California—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.306 [Amended]

■ 7. Section 81.306 is amended by revising the table heading for “Colorado—SO₂” to read “Colorado—

1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.307 [Amended]

■ 8. Section 81.307 is amended by revising the table heading for “Connecticut—SO₂” to read “Connecticut—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.308 [Amended]

■ 9. Section 81.308 is amended by revising the table heading for “Delaware—SO₂” to read “Delaware—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.309 [Amended]

■ 10. Section 81.309 is amended by revising the table heading for “District

of Columbia—SO₂” to read “District of Columbia—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

■ 11. Section 81.310 is amended as follows:

■ a. By revising the table heading for “Florida—SO₂” to read “Florida—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”;

■ b. By adding a new table entitled “Florida—2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Florida—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§ 81.310 Florida.

* * * * *

FLORIDA—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
Hillsborough County, FL ¹	10-4-13	Nonattainment.
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) 35881, 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		
Nassau County, FL ¹	10-4-13	Nonattainment.
Nassau County (part) That portion of Nassau County encompassing the circular boundary with the center being UTM Easting 455530 meters, UTM Northing 3391737 meters, UTM zone 17, using the NAD83 datum (the location of the violating ambient monitor) and the radius being 2.4 kilometers		

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

* * * * *

§ 81.311 [Amended]

■ 12. Section 81.311 is amended by revising the table heading for “Georgia—SO₂” to read “Georgia—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.312 [Amended]

■ 13. Section 81.312 is amended by revising the table heading for “Hawaii—SO₂” to read “Hawaii—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.313 [Amended]

■ 14. Section 81.313 is amended by revising the table heading for “Idaho—

SO₂” to read “Idaho—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

■ 15. Section 81.314 is amended as follows:

■ a. By revising the table heading for “Illinois—SO₂” to read “Illinois—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”;

■ b. By adding a new table entitled “Illinois—2010 Sulfur Dioxide NAAQS

(Primary)” following the newly designated table “Illinois—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows: § 81.314 Illinois.
* * * * *

ILLINOIS—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
Lemont, IL ¹ Cook County (part) Lemont Township Will County (part) DuPage Township and Lockport Township	10-4-13	Nonattainment.
Pekin, IL ¹ Tazewell County (part) Cincinnati Township and Pekin Township Peoria County (part) Hollis Township	10-4-13	Nonattainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

* * * * * Sulfur Dioxide NAAQS (Primary and Secondary)”; and Dioxide NAAQS (Primary and Secondary)” to read as follows:
■ 16. Section 81.315 is amended as follows:
■ a. By revising the table heading for “Indiana—SO₂” to read “Indiana—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and
■ b. By adding a new table entitled “Indiana—2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Indiana—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows: § 81.315 Indiana.
* * * * *

INDIANA—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
Indianapolis, IN ¹ Marion County (part) Wayne Township, Center Township, Perry Township	10-4-13	Nonattainment.
Morgan County, IN ¹ Morgan County (part) Clay Township, Washington Township	10-4-13	Nonattainment.
Southwest Indiana, IN ¹ Daviess County (part) Veale Township Pike County (part) Washington Township	10-4-13	Nonattainment.
Terre Haute, IN ¹ Vigo County (part) Fayette Township, Harrison Township	10-4-13	Nonattainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

* * * * * Sulfur Dioxide NAAQS (Primary and Secondary)”; and Dioxide NAAQS (Primary and Secondary)” to read as follows:
■ 17. Section 81.316 is amended as follows:
■ a. By revising the table heading for “Iowa—SO₂” to read “Iowa—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and
■ b. By adding a new table entitled “Iowa—2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Iowa—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows: § 81.316 Iowa.
* * * * *

IOWA—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
Muscatine, IA ¹ Muscatine County (part) Sections 1-3, 10-15, 22-27, 34-36 of T77N, R3W (Lake Township) Sections 1-3, 10-15, 22-27, 34-36 of T76N, R3W (Seventy-six Township) T77N, R2W (Bloomington Township). T76N, R2W (Fruitland Township) All sections except 1, 12, 13, 24, 25, 36 of T77N, R1W (Sweetland Township)	10-4-13	Nonattainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

* * * * *

§ 81.317 [Amended]

■ 18. Section 81.317 is amended by revising the table heading for “Kansas—SO₂” to read “Kansas—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

■ 19. Section 81.318 is amended as follows:
 ■ a. By revising the table heading for “Kentucky—SO₂” to read “Kentucky—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”;

NAAQS (Primary)” following the newly designated table “Kentucky—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§ 81.318 Kentucky.

* * * * *

KENTUCKY—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
Campbell-Clermont Counties, KY—OH ¹ Campbell County (part) That portion of Campbell County which lies south and west of the Ohio River described as follows: Beginning at geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude (NAD 1983) on the edge of the Ohio River running southwesterly to KY Highway 1566; thence continuing running southwesterly along KY Highway 1566 to KY Highway 9 (AA Highway); thence running north westerly along KY Highway 9 (AA Highway) from Hwy 1566 to Interstate 275; thence running northeasterly along Interstate 275 to Highway 2345 (John’s Hill Road), Hwy 2345 to US–27, US–27 to I–275, I–275 to the Ohio River; thence running southeasterly along the Ohio River from Interstate 275 to geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude (NAD 1983)	10–4–13	Nonattainment.
Jefferson County, KY ¹ Jefferson County (part) That portion of Jefferson County compassed by the polygon with the vertices using Universal Traverse Mercator (UTM) coordinates in UTM zone 16 with datum NAD83 as follows: (1) Ethan Allen Way extended to the Ohio River at UTM Easting (m) 595738, UTM Northing 4214086 and Dixie Highway (US60 and US31W) at UTM Easting (m) 59751, UTM Northing 4212946; (2) Along Dixie Highway from UTM Easting (m) 597515, UTM Northing 4212946 to UTM Easting (m) 595859, UTM Northing 4210678; (3) Near the adjacent property lines of Louisville Gas and Electric—Mill Creek Electric Generating Station and Kosmos Cement where they join Dixie Highway at UTM Easting (m) 595859, UTM Northing 4210678 and the Ohio River at UTM Easting (m) 595326, UTM Northing 4211014; (4) Along the Ohio River from UTM Easting (m) 595326, UTM Northing 4211014 to UTM Easting (m) 595738, UTM Northing 4214086	10–4–13	Nonattainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

* * * * *

■ 20. Section 81.319 is amended as follows:
 ■ a. By revising the table heading for “Louisiana—SO₂” to read “Louisiana—

1971 Sulfur Dioxide NAAQS (Primary and Secondary)”;

Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§ 81.319 Louisiana.

* * * * *

LOUISIANA—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
St. Bernard Parish, LA ¹ St. Bernard Parish	10–4–13	Nonattainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

* * * * *

§ 81.320 [Amended]

■ 21. Section 81.320 is amended by revising the table heading for “Maine—SO₂” to read “Maine—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.321 [Amended]

■ 22. Section 81.321 is amended by revising the table heading for “Maryland—SO₂” to read “Maryland—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.322 [Amended]

■ 23. Section 81.322 is amended by revising the table heading for “Massachusetts—SO₂” to read “Massachusetts—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

■ 24. Section 81.323 is amended as follows:

■ a. By revising the table heading for “Michigan—SO₂” to read “Michigan—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and

■ b. By adding a new table entitled “Michigan—2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Michigan—1971

Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§ 81.323 Michigan.
* * * * *

MICHIGAN—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
Detroit, MI ¹ Wayne County (part) The area bounded on the east by the Michigan-Ontario border, on the south by the Wayne County-Monroe County border, on the west by Interstate 75 north to Southfield Road, Southfield Road to Interstate 94, and Interstate 94 north to Michigan Avenue, and on the north by Michigan Avenue to Woodward Avenue and a line on Woodward Avenue extended to the Michigan-Ontario border	10-4-13	Nonattainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

* * * * *

§ 81.324 [Amended]

■ 25. Section 81.324 is amended by revising the table heading for “Minnesota—SO₂” to read “Minnesota—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.325 [Amended]

■ 26. Section 81.325 is amended by revising the table heading for “Mississippi—SO₂” to read “Mississippi—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

■ 27. Section 81.326 is amended as follows:

■ a. By revising the table heading for “Missouri—SO₂” to read “Missouri—

1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and

■ b. By adding a new table entitled “Missouri—2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Missouri—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§ 81.326 Missouri.
* * * * *

MISSOURI—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
Jackson County, MO ¹ Jackson County (part) The portion of Jackson County bounded by I-70/I-670 and the Missouri River to the north; and, to the west of I-435 to the state line separating Missouri and Kansas	10-4-13	Nonattainment.
Jefferson County, MO ¹ Jefferson County (part) That portion within Jefferson County described by connecting the following four sets of UTM coordinates moving in a clockwise manner: (Herculaneum USGS Quadrangle) 718360.283 4250477.056 729301.869 4250718.415 729704.134 4236840.30 718762.547 4236558.715 (Festus USGS Quadrangle) 718762.547 4236558.715 729704.134 4236840.30 730066.171 4223042.637 719124.585 4222680.6 (Selma USGS Quadrangle) 729704.134 4236840.30 730428.209 4236840.3 741047.984 4223283.996 730066.171 4223042.637 (Valmeyer USGS Quadrangle) 729301.869 4250718.415 731474.096 4250798.868 730428.209 4236840.3 729704.134 4236840.30	10-4-13	Nonattainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

* * * * *

■ 28. Section 81.327 is amended as follows:

■ a. By revising the table heading for “Montana—SO₂” to read “Montana—

1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and

■ b. By adding a new table entitled “Montana—2010 Sulfur Dioxide NAAQS (Primary)” following the newly

designated table “Montana—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§ 81.327 Montana.
* * * * *

MONTANA—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
Billings, MT ¹ Yellowstone County (part) The area originates at the point defined as the southwest corner of Section 11, Township 1S, Range 26E. From that point the boundary proceeds north along the western section line of Section 11 to the point of intersection with the midline of Interstate Highway 90. From that point the boundary follows the midline of Interstate Highway 90, across the Yellowstone River, to the point where the highway midline intersects the northern boundary of Section 35, Township 1N, Range 26E. From that point the boundary proceeds east along the northern section line of Sections 35 and 36 to the point where Old US 87/Hardin Road leaves the section line and turns southeast. The boundary follows the midline of Old US 87/Hardin Road southeast to the point where the road intersects the western boundary of the SE ¼ of the SE ¼ of Section 31, Township 1N, Range 27E. From that point the boundary proceeds south along the ¼ section line to the southern boundary of Township 1N, then east to the northeast corner of Section 5, Township 1S, Range 27E. The boundary then proceeds south along the eastern section line of sections 5 and 8 to the southeast corner of Section 8, Township 1S, Range 27E, where it turns west and follows the south section line of Sections 8 and 7, Township 1S, Range 27E; and Sections 12 and 11, Township 1S, Range 26E, back to the point of origin	10-4-13	Nonattainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

* * * * *

§ 81.328 [Amended]

■ 29. Section 81.328 is amended by revising the table heading for “Nebraska—SO₂” to read “Nebraska—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

■ 30. Section 81.329 is amended by revising the table heading for “Nevada—

SO₂” to read “Nevada—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

■ 31. Section 81.330 is amended as follows:

■ a. By revising the table heading for “New Hampshire—SO₂” to read “New Hampshire—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and

■ b. By adding a new table entitled “New Hampshire—2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “New Hampshire—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§ 81.330 New Hampshire.

* * * * *

NEW HAMPSHIRE—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
Central New Hampshire, NH ¹ Hillsborough County (part) Goffstown Town Merrimack County (part) Allenstown Town, Bow Town, Chichester Town, Dunbarton Town, Epsom Town, Hooksett Town, Loudon Town, Pembroke Town, Pittsfield Town, City of Concord Rockingham County (part) Candia Town, Deerfield Town, Northwood Town	10-4-13	Nonattainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

* * * * *

§ 81.331 [Amended]

■ 32. Section 81.331 is amended by revising the table heading for “New Jersey—SO₂” to read “New Jersey—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.332 [Amended]

■ 33. Section 81.332 is amended by revising the table heading for “New Mexico—SO₂” to read “New Mexico—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.333 [Amended]

■ 34. Section 81.333 is amended by revising the table heading for “New York—SO₂” to read “New York—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.334 [Amended]

■ 35. Section 81.334 is amended by revising the table heading for “North Carolina—SO₂” to read “North Carolina—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.335 [Amended]

■ 36. Section 81.335 is amended by revising the table heading for “North

Dakota—SO₂” to read “North Dakota—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

■ 37. Section 81.336 is amended as follows:

■ a. By revising the table heading for “Ohio—SO₂” to read “Ohio—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and

■ b. By adding a new table entitled “Ohio—2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Ohio—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§ 81.336 Ohio.

* * * * *

OHIO—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
Campbell-Clermont Counties, KY-OH ¹ Clermont County (part)	10-4-13	Nonattainment.
Lake County, OH ¹ Lake County	10-4-13	Nonattainment.
Muskingum River, OH ¹	10-4-13	Nonattainment.
Morgan County (part) Center Township Washington County (part) Waterford Township		
Steubenville OH-WV ¹ Jefferson County (part)	10-4-13	Nonattainment.
Cross Creek Township, Steubenville Township, Warren Township, Wells Township, Steubenville City		

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

* * * * *

§ 81.338 [Amended]

“Pennsylvania—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”;
 ■ b. By adding a new table entitled “Pennsylvania—2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Pennsylvania—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§ 81.337 [Amended]

■ 38. Section 81.337 is amended by revising the table heading for “Oklahoma—SO₂” to read “Oklahoma—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

■ 39. Section 81.338 is amended by revising the table heading for “Oregon—SO₂” to read “Oregon—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

■ 40. Section 81.339 is amended as follows:

■ a. By revising the table heading for “Pennsylvania—SO₂” to read

§ 81.339 Pennsylvania.

* * * * *

PENNSYLVANIA—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
Allegheny, PA ¹ Allegheny County (part)	10-4-13	Nonattainment.
The area consisting of: Borough of Braddock Borough of Dravosburg Borough of East McKeesport Borough of East Pittsburgh Borough of Elizabeth Borough of Glassport Borough of Jefferson Hills Borough of Liberty Borough of Lincoln Borough of North Braddock Borough of Pleasant Hills Borough of Port Vue Borough of Versailles Borough of Wall Borough of West Elizabeth Borough of West Mifflin City of Clairton City of Duquesne City of McKeesport Elizabeth Township Forward Township North Versailles Township		
Beaver, PA ¹ Beaver County (part)	10-4-13	Nonattainment.
Area consisting of Industry Borough, Shippingport Borough, Midland Borough, Brighton Township, Potter Township and Vanport Township		
Indiana, PA ¹	10-4-13	Nonattainment.
Indiana County Armstrong County (part) Area consisting of Plumcreek Township, South Bend Township, and Elderton Borough		
Warren, PA ¹		

PENNSYLVANIA—2010 SULFUR DIOXIDE NAAQS (PRIMARY)—Continued

Designated area	Designation	
	Date	Type
Warren County (part) Area consisting of Conewango Township, Glade Township, Pleasant Township, and the City of Warren	10-4-13	Nonattainment

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

* * * * *

§ 81.340 [Amended]

■ 41. Section 81.340 is amended by revising the table heading for “Rhode Island—SO₂” to read “Rhode Island—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.341 [Amended]

■ 42. Section 81.341 is amended by revising the table heading for “South Carolina—SO₂” to read “South

Carolina—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.342 [Amended]

■ 43. Section 81.342 is amended by revising the table heading for “South Dakota—SO₂” to read “South Dakota—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

■ 44. Section 81.343 is amended as follows:

■ a. By revising the table heading for “Tennessee—SO₂” to read

“Tennessee—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”;

and ■ b. By adding a new table entitled “Tennessee—2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Tennessee—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§ 81.343 Tennessee.

* * * * *

TENNESSEE—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
Sullivan County, TN ¹ Sullivan County (part) That portion of Sullivan County encompassing a circle having its center at the B-253 power house coordinates 36.5186 N; 82.5350 W and having a 3-kilometer radius	10-4-13	Nonattainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

* * * * *

§ 81.344 [Amended]

■ 45. Section 81.344 is amended by revising the table heading for “Texas—SO₂” to read “Texas—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.345 [Amended]

■ 46. Section 81.345 is amended by revising the table heading for “Utah—SO₂” to read “Utah—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.346 [Amended]

■ 47. Section 81.346 is amended by revising the table heading for “Vermont—SO₂” to read “Vermont—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.347 [Amended]

■ 48. Section 81.347 is amended by revising the table heading for “Virginia—SO₂” to read “Virginia—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.348 [Amended]

■ 49. Section 81.348 is amended by revising the table heading for “Washington—SO₂” to read

“Washington—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

■ 50. Section 81.349 is amended as follows:

■ a. By revising the table heading for “West Virginia—SO₂” to read “West Virginia—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”;

and ■ b. By adding a new table entitled “West Virginia—2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “West Virginia—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§ 81.349 West Virginia.

* * * * *

WEST VIRGINIA—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
Steubenville, OH—WV ¹ Brooke County (part) Area bounded by the Cross Creek Tax District	10-4-13	Nonattainment.
Marshall, WV ¹ Marshall County (part) Area consisting of Clay Tax district, Franklin Tax District, and Washington Tax District	10-4-13	Nonattainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

* * * * *

■ 51. Section 81.350 is amended as follows:

■ a. By revising the table heading for “Wisconsin—SO₂” to read

“Wisconsin—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”; and

■ b. By adding a new table entitled “Wisconsin—2010 Sulfur Dioxide NAAQS (Primary)” following the newly designated table “Wisconsin—1971

Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§ 81.350 Wisconsin.

* * * * *

WISCONSIN—2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area	Designation	
	Date	Type
Rhineland, WI ¹ Oneida County (part) City of Rhineland, Crescent Town, Newbold Town, Pine Lake Town, and Pelican Town	10-4-13	Nonattainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.

* * * * *

§ 81.351 [Amended]

■ 52. Section 81.351 is amended by revising the table heading for “Wyoming—SO₂” to read “Wyoming—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.352 [Amended]

■ 53. Section 81.352 is amended by revising the table heading for “American Samoa—SO₂” to read “American Samoa—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.353 [Amended]

■ 54. Section 81.353 is amended by revising the table heading for “Guam—SO₂” to read “Guam—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.354 [Amended]

■ 55. Section 81.354 is amended by revising the table heading for “Northern Mariana Islands—SO₂” to read “Northern Mariana Islands—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.355 [Amended]

■ 56. Section 81.355 is amended by revising the table heading for “Puerto Rico—SO₂” to read “Puerto Rico—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

§ 81.356 [Amended]

■ 57. Section 81.356 is amended by revising the table heading for “Virgin Islands—SO₂” to read “Virgin Islands—1971 Sulfur Dioxide NAAQS (Primary and Secondary)”.

[FR Doc. 2013-18835 Filed 8-2-13; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-2000-0003; FRL 9842-7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List; Direct Deletion of the Imperial Refining Company Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is publishing a direct final Notice of Deletion of the Imperial Refining Co. Superfund Site located in Ardmore, Carter County, Oklahoma, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Oklahoma, through the Oklahoma Department of Environmental Quality (ODEQ), because EPA has determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective September 19, 2013 unless EPA receives adverse comments by September 4, 2013. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-2000-0003, by one of the following methods:

- <http://www.regulations.gov>: Follow internet on-line instructions for submitting comments.
- **Email:** Brian W. Mueller, mueller.brian@epa.gov.
- **Fax:** 214-665-6660.
- **Mail:** Brian W. Mueller, U.S. Environmental Protection Agency, Region 6; Superfund Division (6SF-RA); 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202-7167.
- **Hand delivery:** U.S. Environmental Protection Agency, Region 6; 1445 Ross Avenue, Suite 700; Dallas, Texas 75202-2733; Contact: Brian W. Mueller (214) 665-7167. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-AFUND-2000-0003. 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://www.regulations.gov>, 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 <http://www.regulations.gov> or email. The <http://www.regulations.gov> Web site is an “anonymous access” system, 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 email comment directly to EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and

STATE OF ILLINOIS

COUNTY OF SANGAMON

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CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have served electronically the attached ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S RESPONSES TO THE ILLINOIS POLLUTION CONTROL BOARD'S QUESTIONS upon the following person:

John Therriault, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph St., Suite 11-500
Chicago, IL 60601

and electronically and by mailing it by first-class mail from Springfield, Illinois, with sufficient postage affixed to the following persons:

SEE ATTACHED SERVICE LIST

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,



Gina Roccaforte
Assistant Counsel
Division of Legal Counsel

DATED: September 5, 2013

1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
217.782.5544
217.782.9143 (TDD)

SERVICE LIST

Carol Webb, Hearing Officer
Illinois Pollution Control Board
1021 N. Grand Ave. East
P.O. Box 19274
Springfield, IL 62794-9274

Renee Cipriano
Amy Antonioli
Schiff Hardin LLP
233 South Wacker Drive, Suite 6600
Chicago, IL 60606

Claire A. Manning
William D. Ingersoll
Brown, Hay & Stephens, LLP
205 S. Fifth Street, Suite 700
P.O. Box 2459
Springfield, IL 62705-2459

Faith Bugel
Andrew Armstrong
Environmental Law and Policy Center
35 East Wacker Drive, Suite 1600
Chicago, IL 60601