

ORAL ARGUMENT NOT YET SCHEDULED

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

AMERICAN LUNG ASS'N, et al.,)	
)	
Petitioners,)	
)	
v.)	Docket No. 17-1172
)	(and consolidated cases)
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY, et al.,)	
)	
Respondents.)	

SUPPLEMENTAL STATUS REPORT

Respondents United States Environmental Protection Agency and Scott Pruitt, Administrator, (collectively “EPA”) submit this Supplement to the Status Report filed January 12, 2018 (ECF No. 1712875). In the January 12 Status Report, EPA reported that the Agency has stated in certain letters sent to state governments on December 20 and 22 its goal of finalizing designations by April 30, 2018, but that the exact details of the Agency’s plan for finalizing all remaining designations were still being determined in conjunction with pending responses to motions for summary judgment due January 19, 2018 in actions brought in the Northern District of California to compel EPA to issue the remaining designations for the 2015 revisions to the National Ambient Air Quality Standards for ozone.

The January 12 Status Report further stated that EPA would submit to this Court a Supplemental Status Report concerning those details on January 19, 2018.¹

As described in the attached Declaration of William Wehrum (“Wehrum Decl.”), which has been filed in the Northern District of California, EPA intends to finalize all pending ozone designations by April 30, 2018, except for the eight counties comprising the San Antonio, Texas area. Wehrum Decl. ¶ 6. EPA intends to finalize the designation for the eight counties comprising the San Antonio area by August 10, 2018. *Id.*

As described in the January 12 Status Report and the attached declaration, the April 30, 2018 date is consistent with the Clean Air Act’s requirement to provide 120-day notice to States where EPA is intending to modify a State’s recommended designations and with EPA’s need to consider and respond to comments on the intended designations. Wehrum Decl. ¶¶ 15-35. The designation for the eight counties comprising the San Antonio area is on a later schedule because the State of Texas has informed EPA that it has further information

¹ EPA also wishes to note one correction to the January 12 Status Report. That Report stated that a corrected Regulatory Agenda entry would be published in the Federal Register on January 16. ECF No.1712875. Rather, on January 12, the Federal Register published a notice of the availability of the Agency’s electronic Regulatory Agenda. 83 Fed. Reg. 1932 (Jan. 12, 2018). The corrected entry regarding ozone designations is available at <https://www.regulations.gov/document?D=EPA-HQ-OAR-2017-0223-0007>.

concerning that area that may warrant a change to the State's recommended designation. Wehrum Decl. ¶¶ 36-42. Accordingly, EPA requires additional time to consider that information, decide on its intended designation, and provide an opportunity for public comment. *Id.* (EPA intends to finalize designations for the other remaining areas in Texas by April 30.)

Respectfully submitted,

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January 19, 2018

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of January, 2018, I caused a copy of the foregoing document to be served by the Court's CM/ECF system on all counsel of record in this matter.

/s/ Norman L. Rave, Jr.
Norman L. Rave, Jr.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

AMERICAN LUNG ASSOCIATION,)	
<i>et al.</i> ,)	
)	
<i>Plaintiffs</i> ,)	
)	
v.)	Civil Action 3:17-cv-06900
)	
SCOTT PRUITT, Administrator,)	
United States Environmental)	
Protection Agency,)	
)	
<i>Defendant</i> .)	

DECLARATION OF WILLIAM WEHRUM

1. I, William L. Wehrum, under penalty of perjury, affirm and declare that the following statements are true and correct to the best of my knowledge and belief and are based on my own personal knowledge or on information supplied to me by United States Environmental Protection Agency (“EPA”) employees under my supervision. The purpose of this declaration is to explain EPA’s proposed schedule for completing area designations in connection with the 2015 ozone National Ambient Air Quality Standards, and to provide information to the Court in response to the Plaintiffs’ request that the Court impose a specific effective date for the remaining area designations.

2. I am the Assistant Administrator for the Office of Air and Radiation (“OAR”) at EPA, a position I have held since November 13, 2017. Previously I

served as EPA's Acting Assistant Administrator for Air and Radiation from 2005 to 2007, as well as Principal Deputy Assistant Administrator and Counsel to the Assistant Administrator for Air and Radiation from 2001 to 2005.

3. OAR is the EPA office that develops national programs, technical policies, and regulations for controlling air pollution. OAR's assignments include the protection of public health and welfare, pollution prevention, air quality, and addressing air pollution impacts of industrial air pollution, pollution from vehicles and engines, toxic air pollutants, acid rain, stratospheric ozone depletion, and climate change.

4. Of particular relevance to the above-captioned case, OAR is the office within EPA that is primarily responsible for the development and implementation of regulations, policy, and guidance associated with national ambient air quality standards ("NAAQS") under the Clean Air Act ("CAA").

5. Accordingly, I am providing this declaration to provide information necessary to respond to Plaintiffs' proposed deadlines for EPA to complete area designations for 2015 ozone NAAQS. The State Plaintiffs¹ request that the Court order EPA to "finalize and make effective each remaining designation immediately, unless EPA has provided notice of its intent to modify the state-

¹ California, New York, Connecticut, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, and the District of Columbia.

recommended initial designation, in which case EPA must finalize the designation and make it effective not later than April 30, 2018.” State Plaintiffs’ Motion for Summary Judgment at 15. The Non-Governmental Organization (NGO) Plaintiffs² initially requested that the Court order EPA to “promulgat[e] final designations for all areas of the country no later than 180 days from the date of this Court’s order.” NGO Plaintiffs’ Motion for Summary Judgment at 23. On January 4, 2018, the NGO Plaintiffs moved to amend their request for relief to require that EPA “promulgate area designations for all areas of the country under the 2015 National Ambient Air Quality Standards for ozone by April 30, 2018.” NGO Plaintiffs’ Notice of EPA Action and Plaintiffs’ Amended Request for Relief at 4. They also requested that the Court “specify that the designations be effective immediately upon their promulgation.” *Id.*

6. As provided in greater detail in Section B below, EPA intends to complete designations for the 2015 ozone NAAQS for most areas of the country by April 30, 2015. EPA has initiated the 120-day notice period provided in CAA Section 107(d)(1)(B)(ii) for areas for which EPA intends to modify the State’s recommendation. That period expires on April 23, 2018. Consistent with Section

² American Lung Association, American Public Health Association, American Thoracic Society, Appalachian Mountain Club, Environmental Defense Fund, Environmental Law and Policy Center, National Parks Conservation Association, Natural Resources Defense Council, Sierra Club, and West Harlem Environmental Action.

107(d)(2)(B), 42 U.S.C. § 7507(d)(2)(B), EPA has initiated a public comment process for all areas addressed in the December notices, and I believe it is in the best interest of the Agency, the States, and the public to allow that process to go forward in order to improve the quality, supportability and defensibility of the final designations. As explained in Section C below, additional time is needed to finalize designations for the eight counties in the San Antonio area because the State has indicated it has additional information to submit, and EPA is waiting to take the next steps in the designation process for this area pending submission and analysis of that information. EPA will complete the designations for these eight counties no later than August 10, 2018. Regarding the request that the Court order EPA to establish a specific effective date as part of the designations rule, as explained in Section D below, the CAA does not require EPA to establish a specific effective date for designations. Moreover, EPA intends to specify an effective date that is consistent with the agency's past practice.

A. General Background on Designations and the 2015 Ozone NAAQS Designation Process Thus Far

7. When EPA promulgates a new or revised NAAQS, Section 107(d)(1)(A), 42 U.S.C. § 7407(d)(1)(A), directs that States submit to EPA, within one year, lists of areas (or portions thereof) in the States, designating them as either “nonattainment” (meaning the area does not meet the NAAQS or contributes to

ambient air quality in a nearby area that does not meet the NAAQS), “attainment” (meaning the area meets the NAAQS), or “unclassifiable” (meaning the area cannot be classified on the basis of available information). Section 107(d)(1)(B)(i) provides that the Administrator “shall promulgate designations for all areas ... no later than 2 years from the date of promulgation of the new or revised” NAAQS. 42 U.S.C. § 7407(d)(1)(B)(i). However, the Administrator may extend that period by up to one year “in the event the Administrator has insufficient information to promulgate the designations.” Under Section 107(d)(1)(B)(ii), 42 U.S.C. § 7407(d)(1)(B)(ii), the Administrator is provided authority to modify a State’s designation recommendation where he “deems necessary,” but must provide the State with notice of “such modification no later than 120 days before the date the Administrator promulgates the designation.” EPA usually provides such notice through letters to state Governors, often referred to as “120-day letters.” CAA Section 107(d)(2) requires that EPA publish notice in the Federal Register of the final designations, and provides that promulgation of designations “shall not be subject to the provisions of Sections 553 through 557 [of the Administrative Procedure Act (“APA”)] (relating to notice and comment), except nothing herein shall be construed as precluding such public notice and comment whenever possible.” 42 U.S.C. § 7407(d)(2).

8. Sections 553 through 557 of the APA include provisions establishing a notice and comment process for rulemaking. In addition, Section 553(d) includes a provision providing “[t]he required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except – (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. § 553(d).

9. The CAA requires an area to be designated nonattainment if it is violating the standard or “contributes to ambient air quality in a nearby area” that is violating the standard. 42 U.S.C. § 7507(d)(1)(A)(i). Thus, there are two independent bases for including an area within the boundaries of a nonattainment area: the area is violating the NAAQS or the area is a “nearby contributing” area. EPA typically performs this analysis on a county-by-county basis. A determination of whether an area is violating the 2015 ozone NAAQS is based on the most recent three years of ambient air quality monitoring data. *See* 40 C.F.R. § 50.19 and Part 50, App’x. U. Appendix U to part 50 specifies data completeness requirements for determining whether an area is attaining the 2015 ozone NAAQS. Gaps in the data could lead to an “unclassifiable” designation. The States, in making designation recommendations, and EPA, in making the intended and final designation decisions, rely on the relevant air quality monitoring data produced by

monitors in each area, although certain monitored data may be excluded from consideration during designations if the State demonstrates (and EPA concurs) that the data was influenced by an exceptional event. *See* 42 U.S.C. § 7619(b).

10. Once EPA has determined that an area is violating the ozone NAAQS based on air quality monitoring data, it must identify whether there are any nearby contributing areas that should be included as part of the designated nonattainment area. EPA's guidance for 2015 ozone NAAQS designations identifies the scope of the area EPA intends to analyze for nearby contribution: "the EPA intends to consider information relevant to designations associated with the counties in the Core Based Statistical Area (CBSA) or Combined Statistical Area (CSA) in which the violating monitor(s) are located" and "[w]here a violating monitor is not located in a CBSA or CSA, the EPA intends to review relevant information associated with the county containing the monitor and, if appropriate, other adjacent nearby counties." *See* Attachment 1, Area Designations for the 2015 Ozone National Ambient Air Quality Standards, issued by Janet G. McCabe, Acting Assistant Administrator for the Office of Air and Radiation (February 26, 2015) ("Designations Guidance") at 5-6. This approach is consistent with the approach Congress established for determining boundaries for purposes of the designations that occurred at the time of the 1990 CAA Amendments for the 1-

hour ozone standard then in effect³ and it is the same approach EPA used for designating areas for the 1997 and 2008 ozone standards.⁴

11. The initial evaluation of state submissions of area designation recommendations, issuance of 120-day letters, and evaluation of additional information submitted by States and public commenters is typically performed by the respective EPA Regions in which the States are located, with significant support from OAR staff as well as staff from the Office of General Counsel (“OGC”). However, since individual area designations can have national significance in establishing or applying CAA policy, OAR is responsible for coordinating the overall review and development of the appropriate actions necessary for the Agency to issue final designations. The Administrator then signs

³ See CAA Section 107(d)(4)(A)(iv), 42 U.S.C. § 7407(d)(4)(A)(iv), establishing the designation process applicable to the 1-hour ozone standard in place at the time of the CAA Amendments of 1990 and establishing a presumption that the boundaries for nonattainment areas classified as serious, severe or extreme would be the boundaries of the metropolitan statistical area (“MSA”) or consolidated metropolitan statistical area (“CMSA”) but that such boundaries could be modified based on a request of the Governor. After the 2010 census, the terms CBSA and CSA replaced the terms MSA and CMSA.

⁴ Boundary Guidance on Air Quality Designations for the 8-Hour Ozone National Ambient Air Quality Standards, issued by John S. Seitz, Director of the Office of Air Quality Planning and Standards, available at https://archive.epa.gov/ozonedesignations/web/pdf/032800_boundaryguidance.pdf; Area Designations for the 2008 Revised Ozone National Ambient Air Quality Standards, issued by Robert J. Meyers, Principal Deputy Assistant Administrator for the Office of Air and Radiation, available at https://archive.epa.gov/ozonedesignations/web/pdf/area_designations_for_the_2008_revised_ozone_naaqs.pdf;

the Federal Register notice that promulgates the final designations and codifies them into Title 40 of the Code of Federal Regulations at part 81, subpart C.

12. The designations at issue in this litigation affect many States and have important national consequences, especially with respect to application of the designations criteria of Section 107(d)(1)(A)(i)-(iii), 42 U.S.C. § 7407(d)(1)(A)(i)-(iii). Accordingly, my office is ultimately responsible for the actions at issue in this litigation.

13. With respect to the area designations required for the 2015 ozone NAAQS, EPA issued area designations for 2,646 counties, including areas of Indian country located in these counties, on November 6, 2017. *See* Attachment 2, 82 FR 54232 (Nov. 16, 2017). On December 22, 2017,⁵ EPA sent letters notifying each State of the designations the agency intends to make for all other areas of the country not yet designated, except the eight counties comprising the San Antonio, Texas Core Based Statistical Area (“CBSA”).⁶ As part of the December 2017 notifications, EPA informed each State whether and, if so, how it intended to modify the State’s recommendation. *See* Attachment 3, Example 120-Day Letter.

⁵ Although most of the letters to the States were signed on December 20, 2017, the letters were not sent to the States until December 22, 2017. *See* <https://www.epa.gov/ozone-designations/epa-responds-state-and-tribal-recommendations-2015-ozone-standards>.

⁶ *See* Section C, *infra*, for more information regarding the San Antonio area.

In addition, EPA requested that the State submit any additional information that the State wants EPA to consider in making final designations by February 28, 2018.

14. On January 5, 2018, a notice was published in the Federal Register providing a 30-day period for the public to submit comment on the recommendations submitted by the States and EPA's intended designations addressed in the December 2017 letters. *See* Attachment 4, 83 FR 651 (Jan. 5, 2018). In the January notice, EPA indicated that it "intends to complete the designations for all of the areas addressed in the responses to the States and Tribes no later than April 30, 2018." *Id.* at 653.

B. EPA's Proposed Schedule for Issuing Final Designations for All Remaining Areas of the Country (Except the San Antonio Area)

15. In the December 2017 notifications, EPA addressed all remaining areas of the country (with the exception of the San Antonio area) that EPA did not designate in November 2017. The letters to each State included an enclosure identifying each area of the State that EPA intends to designate as nonattainment or unclassifiable and provided that EPA intends to designate all other areas in the State not previously designated in November 2017 as attainment/unclassifiable. The letter to each State provided a link to EPA's website page where EPA had posted technical support documents ("TSDs") providing the technical analysis for all areas within each State considered for a designation of nonattainment or

unclassifiable. EPA requested that the States submit any additional information for EPA consideration no later than February 28, 2018.

16. For those areas for which EPA informed the State it intended to modify the State's recommendation, the CAA requires that EPA provide 120 days of notice to the State, which expires on April 23, 2018.⁷

17. The 30-day public comment period EPA initiated in the January 5, 2018 Federal Register notice closes on February 5, 2018.

18. EPA anticipates that the final area designations for the 2015 ozone NAAQS will have broad factual, policy, and legal implications. Thus, OAR, OGC, and EPA's ten regional offices will all be actively involved in the development of the final designation decisions and the record to support the designations in order to ensure consistency. Once the public comment period closes, staff within OAR will work with the ten EPA regional offices and OGC to consolidate all of the comments and determine (1) which comments raise facts about a specific designation that would best be addressed by the appropriate regional office and (2) which comments raise issues of Agency consistency, such as application of EPA's Designation Guidance or legal issues, and accordingly would best be addressed by OAR and OGC. In addition, the appropriate regional

⁷ The 120th day following December 22 is Saturday, April 21, so the 120-day notice period expires on Monday, April 23, 2018.

offices typically first review any new information submitted by States or Tribes during the notification period and will identify for OAR and OGC any legal issues or issues related to Agency consistency.

19. Once all comments and new information from States, Tribes, and the public have been compiled and reviewed, the regional staff and OAR will identify information, such as new technical support provided by the State, that should be addressed in the TSDs that will provide the basis for final designation decisions. The remaining issues would be addressed through a response to comments document (“RTC”) that includes comment summaries and responses.

20. OAR staff works with the regional office staff and OGC staff to determine assignments for preparing draft comment summaries and responses for the different comments. In order to ensure consistency, once comment summaries are drafted, they are compiled and shared with, as appropriate, other staff members in the regional offices, OAR, and OGC. During the comment and response preparation and review process, issues are raised to regional, OAQPS, and OGC management as needed.

21. The necessary work for final action on each area designation can be more or less intensive depending upon whether EPA receives significant new information or comments on the proposal, as well as the amount and content of such information and comments. More numerous or more significant comments

can require additional work for evaluation and response and, accordingly, can affect the schedule needed to complete the final designation action. Drafting of comment summaries and responses, addressing additional technical information in the TSDs, and raising issues to EPA management for decisions, as needed, is a process that will occur over the entire period between the close of the comment period and the issuance of final designations, which the Agency intends to do by April 30, 2018 for all remaining areas of the country (except for the San Antonio CBSA, which is addressed in Section C, below).

22. At the same time that regional, OAR and OGC staff are preparing comment summaries and responses and revising the TSDs to address new information, OAR staff are drafting the final Federal Register notice to take action promulgating area designations. The substance of the Federal Register action is usually limited because the main support for the final designations is provided in the accompanying TSDs for each area designated nonattainment.

23. Each TSD addresses all areas in the State containing an air quality monitor that has measured emissions violating the NAAQS. For each violating monitor, the TSD addresses all of the counties in the area of analysis, which as noted earlier is typically the CSA or CBSA in which the county with the violating monitor is located, to determine whether or not they should be included in the nonattainment area designation. EPA regional staff, with help from staff in OAR

and OGC, use information provided by the State to examine a variety of factors to determine which specific counties (or parts of counties) within the area of analysis are contributing to the nonattainment problems at the violating monitor and should thus be included in the nonattainment area. Thus, the TSD identifies and provides support not only for the counties to be included within the area being designated nonattainment, but also provides support for designating any other counties in the CSA or CBSA as attainment/unclassifiable. While much of the work on the TSDs is usually completed before issuance of the 120-day letters, the TSDs often undergo revisions before final designations are issued in order to address new information received from or issues raised in comments by the States, Tribes, and public.

24. While the narrative portion of the Federal Register is usually limited, the portion of the Federal Register action that provides the regulatory tables identifying the designation of each area is more complicated to produce. A table must be prepared for each State and the table for each State must identify each designated area and the boundaries for each area. While many of the designated areas will comprise whole counties either individually or in groups, other areas may have boundaries based on geographical features or other landmarks and those must be reflected accurately in the regulatory tables. Of particular importance for an action that includes the complicated regulatory tables for areas designations is

review by administrative experts to ensure that the notice meets all formatting and editorial requirements for publication in the Federal Register. The Office of the Federal Register sometimes returns signed Federal Register notices to EPA for revisions to comply with such requirements, so it is important for EPA to allocate sufficient time for review of such notices in order to ensure that any problems are identified in advance, which in turn helps to speed final publication of EPA's action.

25. The Administrator has the authority to sign final promulgations of area designations. Once OAR staff have prepared the draft final designations Federal Register notice and the supporting TSDs, the notice is routed through the necessary staff members and managers in various offices throughout OAR for concurrence before being signed by the Administrator. Any edits made during this OAR concurrence process must be incorporated into a revised draft and questions and concerns raised by review staff and managers must be addressed.

26. Paragraphs 18-25 above detail the numerous steps that OAR, in consultation with other EPA offices, must take in order to complete the designation process: compiling, summarizing, and responding to comments; finalizing the designations based on new information and comments received; finalizing TSDs based on any new information received; drafting the final Federal Register notice, including completion of complex regulatory tables; and routing the final Federal

Register package for final review and signature. Under the April 30, 2018 schedule the EPA is proposing to the Court, EPA has allowed 84 days to complete all of those steps following close of the public comment process. A period of 84 days is an expeditious and appropriate amount of time to complete the final designations, given the number of areas involved, the technical analysis and determinations involved required for each area, and the need for coordination among multiple offices to ensure Agency consistency.

27. While Section 107 (d)(2)(B) of the Act specifically exempts EPA from any requirement to provide a public notice and comment opportunity for designation decisions, it has been the Agency's general practice to do so. *See* 76 FR 78872 (Dec. 20, 2011) (inviting comment on intended designations for the 2008 ozone NAAQS); 79 FR 51517 (Aug. 29, 2014) (inviting comment on intended designations for the 2012 fine particulate matter NAAQS); 73 FR 51259 (Sept. 2, 2008) (inviting comment on intended designations for the 2006 fine particulate matter NAAQS); 78 FR 11124 (Feb. 15, 2013) (inviting comment on intended designations for the 2010 sulfur dioxide NAAQS). This is the Agency's general practice because the public comment process can better inform EPA of relevant information before EPA finalizes designations, thereby improving the quality, supportability, and defensibility of the final designations. If the public raises concerns or provides new information during the comment process, EPA can

consider and respond to those concerns and determine whether any new information provided should alter our recommended designations or the analysis supporting them. Thus, the process serves to ensure that the Agency has the opportunity to consider relevant data and resolve disputes during the administrative process, potentially obviating the need for litigation. If the designations are nonetheless challenged in court, EPA's consideration of public comment would contribute greatly to the defensibility of the designations. EPA has a strong record of successfully defending designation decisions because of its ability to thoroughly consider and address issues raised by the public and the States during the period between notification to the States of EPA's intended designations and the issuance of final designation approximately 120 days later. *See Mississippi Comm'n on Env'tl. Quality v. EPA*, 790 F.3d 138 (D.C. Cir. 2015) (addressing designations for the 2008 ozone NAAQS); *ATK Launch Sys. v. EPA*, 669 F.3d 330 (D.C. Cir. 2012) (addressing designations for the 2006 fine particulate matter NAAQS); *Treasure State Resource Industry Association v. EPA*, 805 F.3d 300 (D.C. Cir. 2015) (addressing the first round of designations for the 2010 sulfur dioxide NAAQS).

28. To give one example of the utility of public comment, commenters can help identify inconsistencies among designations, if there are any, and EPA can then either resolve any inconsistencies or explain why they are reasonable in light of the specific information before the Agency before issuing the final

designations. *Mississippi Comm'n*, 790 F.3d at 170. Although EPA evaluates the relevant considerations for designations for each area separately, and the U.S. Court of Appeals for the D.C. Circuit has upheld this approach, the court has also recognized that the Agency must evaluate designations consistently. *See Catawba*, 571 F.3d at 40-41.

29. States and environmental groups have commented on past designations. For the 2008 ozone NAAQS designations, EPA received extensive comments from 15 States, 7 Tribes, and the District of Columbia as well as numerous members of the public. *See, generally*, Responses to Significant Comments on the State and Tribal Designation Recommendations for the 2008 Ozone National Ambient Air Quality Standards (NAAQS) (April 2012) (“2008 ozone NAAQS Designation RTC”), available at https://archive.epa.gov/ozonedesignations/web/pdf/finalo3drtc_043012.pdf. EPA received substantive comments on both technical and policy issues related to the designations for the 2008 ozone NAAQS. EPA expects to receive similar significant comments from States, Tribes, the public for the 2015 ozone NAAQS designations.

30. As provided in the November 2017 notice, EPA did not solicit public comment on the designations in that action because those designations were noncontroversial and fully consistent with the state recommendations. *See*

Attachment 2, 82 FR at 54233. EPA specified in the November 2017 designation action that if a party had any concerns about these designations, they could file an administrative petition for reconsideration. 82 Fed. Reg. at 54233. No such petition for reconsideration has been filed with the EPA. In addition, the November 2017 designation action also provided that any petitions for judicial review of that action should be filed in the Court of Appeals for the District of Columbia Circuit by January 15, 2018 (60 days after publication). 82 Fed. Reg. at 54235. No such petitions for judicial review have been filed.

31. The critical point in determining that public comment was unnecessary was EPA's considered view that those designations were noncontroversial and unlikely to elicit significant comment. Specifically, that action included most, but not all, areas States recommended as attainment and one State-recommended unclassifiable area. None of the areas included in the November 2017 action were areas that EPA intended to consider for designation as nonattainment based on EPA's longstanding approach for evaluating which areas should be designated nonattainment.

32. EPA determined that the November 2017 designation action was noncontroversial because that action did not designate any areas that, consistent with EPA's guidance, EPA planned to consider in designating nonattainment areas—i.e., both areas violating the NAAQS based on the most recent three years

of ambient air quality monitoring data and potential nearby contributing areas. Specifically, in the November 2017 action, EPA did not designate any county violating the 2015 ozone NAAQS based on monitoring data from 2014-2016; any county located in a CBSA or CSA in which another county in that CSA or CBSA was violating the 2015 NAAQS; or any county adjacent to a county that was violating the 2015 ozone NAAQS.

33. In contrast, all of the counties addressed in the December notifications had air quality monitors violating the NAAQS; air quality monitors potentially violating the NAAQS but with a pending exceptional events demonstration; air quality monitors with data quality issues; were located in a CSA or CBSA with another county with a monitored violation of the NAAQS; or were adjacent to a county with a monitored violation of the NAAQS. EPA anticipates that even for counties where EPA does not intend to modify the State's recommendation, the public may have comments or concerns for the Agency to consider in making designation decisions. These may include whether counties should be included or excluded as a "nearby contributing area" from an area designated nonattainment.

34. In fact, during the 2008 ozone NAAQS designations process, EPA received many comments regarding areas where EPA did not intend to modify the State's recommendation. *See, e.g.*, 2008 ozone NAAQS Designation RTC at 16 (comment disagreeing with EPA's proposal and Massachusetts' recommendation

to designate Dukes County as a single nonattainment areas instead of including it in the larger New York-Newark-Bridgeport, NY-NJ-CT-PA area); 69 (comment arguing that EPA's proposed and Colorado's recommended ozone boundaries for the Denver-Boulder-Greeley-Ft Collins-Loveland, CO area did not include all nearby areas that cause or contribute to violations of the 2008 ozone NAAQS); 91 (comment suggesting that EPA did not provide sufficient justification for agreeing with California's recommendation to make several mountain counties separate nonattainment areas instead of including them in the nearby San Joaquin Valley nonattainment area).

35. EPA intends to meet the April 30 schedule for designating all areas except the eight-county San Antonio CBSA, which is an expeditious and appropriate amount of time to promulgate designations for all areas included in the December 22 notification letters, not just those for which EPA intends to modify the State's intended designation. However, if EPA receives information during the public comment period that supports a modification or further modification of a state recommendation, EPA may be obligated to provide an additional 120-day notice prior to issuing the designation and thus would need beyond April 30, 2018 to finalize the designation for such area. If that occurs, EPA would move to modify any court order that has been issued.

C. Time for Completion of Designation for the San Antonio CBSA

36. In the December 22, 2017 letter to the State of Texas, EPA did not include any of the eight counties that comprise the San Antonio, Texas CBSA in the list of areas that the Agency intended to designate as nonattainment. *See* Attachment 5, EPA-HQ-OAR-2017-0548-0215. Likewise, EPA did not include any of those eight counties in the list of areas EPA intended to designate as attainment/unclassifiable, which was included in the docket that accompanied the Federal Register notice announcing that EPA had issued the 120-day and beginning the public comment period. *See* Attachment 6, EPA-HQ-OAR-2017-0548-0079.

37. The State of Texas recommended a designation of nonattainment for one county, Bexar County, in the San Antonio CBSA in its initial recommendation submitted on September 30, 2016. Attachment 7 at 4. However, on September 27, 2017, Texas submitted a letter to EPA requesting that the Agency not move forward with a nonattainment designation for Bexar County “and instead to allow the state more time to show that additional data and considerations — such as international transport — warrant an ‘attainment’ or ‘unclassifiable/attainment’” designation. Attachment 8 at 2.

38. On January 19, 2018, EPA sent a letter to the Governor of Texas explaining that it was “unclear whether you intended the September 27, 2017, letter to serve as an actual revision to the September 30, 2016, recommended

designations for the counties in the San Antonio area.” Attachment 9. EPA then directed Texas to provide “any additional information you would like the EPA to consider in designating the San Antonio area, including any revised designation recommendation, to the EPA by February 28, 2018.” *Id.*

39. EPA does not yet know the content or volume of any additional information or revised designation recommendations that Texas will provide, but based on the Agency’s experience issuing ozone designations and input from EPA staff and managers, EPA has identified the following schedule for completing designation of the eight counties in the San Antonio CBSA.

40. EPA estimates that it will need until April 12, 2018 – 43 days from receipt of Texas’s additional information – to assess that information and any revised recommendation, determine our intended designation for each of the eight counties, and issue a 120-day letter with the necessary accompanying analysis supporting EPA’s intended designations. EPA’s assessment will include review by technical staff who will then brief management on the results of their analysis. Staff will then draft the 120-day letter with our intended designations for the eight counties in the San Antonio area, draft the accompanying technical support document, and draft the Federal Register notice providing notice to and soliciting comment from the public. These documents will need to be reviewed by OAR management prior to issuance. A period of 43 days is an expeditious and

appropriate amount of time for EPA to issue the intended designations for eight counties in the San Antonio area, given the technical analysis involved and the need for coordination among multiple offices, *see* ¶¶ 18-25, *supra* (describing nonattainment area analysis and the similar process used to issue final designations), as well as the fact that staff in OAR, OGC and regional offices performing this work will also be working to finalize the designations for all of the other remaining areas, as outlined in depth in Section B above.

41. Consistent with our practice for all the remaining areas addressed in the December notifications, EPA intends to issue a 120-day letter and accompanying Federal Register notice providing a 30-day public notice and comment period regarding our intended designations for the eight counties in the San Antonio area. At this time, it is not possible to know whether or not EPA will intend to modify Texas' ultimate recommendation, but it is reasonable to include this time in EPA's proposed schedule given that the CAA requires EPA to provide such a notice period where we do intend to modify the recommendation, and a 120-day notification period is consistent with the time provided to all areas in the December notifications, as explained in Section B above. Likewise, while public comment is not required for the designation process, EPA plans to provide it for the intended designations for the San Antonio area consistent with the other

remaining ozone designations in order to improve the quality, supportability and defensibility of the final designations issued by EPA. *See* ¶ 27, *supra*.

42. Accordingly, the earliest date EPA can feasibly complete these processes and issue designations for eight counties in the San Antonio area is August 10, 2018 (i.e., 120 days after the planned April 12, 2018 notification letter).

D. The Effective Date of Designations

43. Section 107(d)(1) establishes a requirement that EPA “promulgate” designations within a specific time period following promulgation of a new or revised NAAQS but does not specify what the effective date of designations must be.

44. For rulemaking actions governed by the procedures of the APA, Section 553 provides that the effective date shall not be earlier than 30 days from publication except in limited circumstances. Though not required, EPA has elected to comply with the rulemaking requirements of the APA for these designations.

45. For designations for the 1997 and 2008 ozone NAAQS, EPA established effective dates of 45 days and 60 days, respectively.⁸ *See* 69 FR 23858

⁸ EPA designated the Chicago area in a separate action taken approximately 1-month later than designations for the other areas because EPA sent a revised 120-day letter to Illinois for the Chicago area approximately one month later than the initial 120-day letters. EPA established an effective date of designation for the Chicago area that was the same as that for the other areas of the country, which was approximately 40 days after publication of the action in the Federal Register. 77 FR 34221 (June 11, 2012).

(April 30, 2004) (establishing an effective date of June 15, 2004); 77 FR 30088 (May 21, 2012) (establishing an effective date of July 20, 2012). EPA anticipates that it will establish an effective date of a similar length for the designations for the 2015 ozone NAAQS.

46. This period of time is consistent with effective dates for many actions taken by EPA. The period between promulgation of an action and the effective date allows time for parties affected by the rule to prepare for compliance. EPA believes that a gap between publication and the effective date for designation actions is appropriate to give States and affected parties time to comply with requirements that apply upon the effective date of designation, especially the designations at issue in this case, as the intended designations contain a number of nonattainment areas. For example, the nonattainment new source review permit program that applies to new or modified major stationary sources of emissions will apply immediately upon the effective date of the nonattainment designation to sources in that area.

47. To the extent that plaintiffs in this case are interested in the effective date of the designations because the deadlines for some statutory requirements applicable to nonattainment areas flow from the effective date of the designations, EPA notes that the deadlines for those submissions are established by rulemaking. The CAA provisions established specific deadlines for ozone NAAQS in effect at

the time of the 1990 CAA Amendments, but, as recognized by the Supreme Court, these deadlines are ill-suited for implementation of a revised, more stringent ozone NAAQS because such deadlines are fixed periods of time running from the date of enactment of the 1990 Amendments. Thus, EPA establishes deadlines for the revised ozone NAAQS in separate rules governing implementation of the NAAQS. 40 C.F.R. Subparts X (for the 1997 ozone NAAQS), AA (for the 2008 ozone NAAQS). In the regulatory provisions for the 1997 and 2008 ozone NAAQS, EPA has established that the SIP submission and attainment deadlines run from the effective date of designation.⁹

48. For the 2015 NAAQS, EPA proposed a similar implementation rule on November 17, 2016. 81 FR 81276 (Nov. 17, 2016). In that action, EPA proposed to take the same approach to implementation deadlines for the 2015 ozone NAAQS as it had for the 1997 and 2008 ozone NAAQS, i.e., that the attainment dates and SIP submission deadlines would run from the effective date of designations for the 2015 ozone NAAQS. *Id.* at 81278; 81285; 81286. Thus, that proposed rule provides the appropriate forum for raising any concern that these time periods should instead run from the date the Administrator signs the

⁹ See, e.g., 40 C.F.R. § 51.1103, Table 1 (“Primary standard attainment date (years after the effective date of designation for 2008 primary NAAQS”); 51.1110(a)(1) (“the state shall submit a SIP revision no later than 36 months after the effective date of designation as nonattainment”).

action designating areas instead of the effective date of the designations. And, in fact, at least one commenter did make such a comment. *See* Attachment 10, Comments of Clean Air Task Force et al. on the Proposed Rule to Implement the 2015 National Ambient Air Quality Standards for Ozone, EPA-HQ-OAR-2016-0202-0118, at pp. 13-14.

49. In addition, EPA cannot make the effective date of the designations any earlier than the date of publication in Federal Register. *See* 42 U.S.C. § 7407(d)(2) (requiring final designations be published in the Federal Register); 44 U.S.C. § 1507 (specifying when documents required to be published in the Federal Register become valid). EPA does not control the date of publication in the Federal Register; that is the responsibility of the Office of Federal Register. 44 U.S.C. § 1502. EPA, once it has issued final actions such as designations, can only transmit them to the Office of Federal Register for publication. 44 U.S.C. § 1503. In so doing, EPA will specify that its action should take effect a certain number of

days after publication. *See* Office of the Federal Register, Nat'l Archives & Records Admin., Doc. Drafting Handbook, May 2017, pp. 3-8, *available at* <https://www.archives.gov/files/federal-register/write/handbook/ddh.pdf>.

SO DECLARED:


WILLIAM L. WEHRUM

Dated: 1-19-18

Attachment 1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 25 2015

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Area Designations for the 2015 Ozone National Ambient Air Quality Standards

FROM: Janet G. McCabe *JGM*
Acting Assistant Administrator

TO: Regional Administrators
Regions 1-10

The purpose of this guidance is to provide information on the schedule and process for initially designating areas for the purpose of implementing the 2015 primary and secondary ozone national ambient air quality standards (NAAQS). In addition, this memorandum identifies important factors that the Environmental Protection Agency intends to evaluate in making final nonattainment area boundary decisions for these standards. The EPA recommends that states and tribes also consider these factors in making their recommendations for area designations and nonattainment area boundaries. As for designations for prior ozone NAAQS, the EPA will also consider any other relevant information in making designation determinations. Please share this memorandum with state and tribal air agencies in your region.

On October 1, 2015, the EPA promulgated revised primary and secondary ozone NAAQS (80 FR 65292, October 26, 2015). In that action, the EPA strengthened both standards to a level of 0.070 parts per million, while retaining their indicators, averaging times, and forms. The EPA revised the ozone standards based on an integrated assessment of an extensive body of new scientific evidence, which substantially strengthens our knowledge regarding ozone-related health and welfare effects, the results of exposure and risk analyses, the advice of the Clean Air Scientific Advisory Committee, and consideration of public comments.

The revised primary standard provides increased protection for children, older adults, and people with asthma or other lung diseases, and other at-risk populations against an array of adverse health effects including reduced lung function, increased respiratory symptoms and pulmonary inflammation and asthma exacerbations; effects that contribute to emergency department visits or hospital admissions; and mortality. The revised secondary standard provides protection of natural forests from adverse growth-related effects and is expected to provide increased protection from other effects of potential public welfare significance, including crop yield loss and visible foliar injury.

Clean Air Act Designation Requirements

Section 107(d) of the Clean Air Act (CAA) governs the process for initial area designations after the EPA establishes a new or revised NAAQS. Under section 107(d) of the CAA, states are required to submit area designation recommendations to the EPA. This submission must happen by a date specified by the EPA, which cannot be sooner than 120 days, or later than 1 year, after promulgation of the new or revised NAAQS. If, after careful consideration of these recommendations, the EPA intends to promulgate a designation different from a state's recommendation, then the EPA must notify the state at least 120 days prior to promulgating the final designation and must provide the state an opportunity to comment on the intended modification. The EPA may choose to modify a state's recommended designation as it relates to the status of an area or as it relates to the boundaries of an area. The CAA requires the EPA to complete the initial designation process within 2 years of promulgation of a new or revised NAAQS, unless the Administrator has insufficient information to make initial designation decisions in the 2-year time frame. In such circumstances, the EPA may take up to 1 additional year to make initial area designation decisions (i.e., no later than 3 years after promulgation of the standard). While section 107(d) of the CAA specifically addresses the designations process between the EPA and states, the EPA intends to follow the same process to the extent practicable for tribes that choose to make initial designation recommendations pursuant to section 301(d) of the CAA regarding tribal authority and the Tribal Authority Rule (TAR) (63 FR 7254, February 12, 1998). To provide clarity and consistency in doing so, in December 2011, the EPA issued a guidance memorandum concerning the involvement of tribes in the designations process.¹ In accordance with the TAR and the December 2011 tribal designations guidance, and in consultation with the tribes, the EPA intends to designate tribal areas on the same schedule as designations for states. If a state or tribe does not submit designation recommendations, then the EPA will promulgate the initial designations that the agency deems appropriate.

Schedule for Initial Ozone Area Designations

State governors should submit, and tribes can choose to submit, their initial designation recommendations for the 2015 ozone NAAQS to the EPA no later than 1 year following promulgation of the revised NAAQS, i.e., by October 1, 2016. Because the form of the 2015 ozone NAAQS relies on a 3-year average, we recommend that states and tribes base their recommendations on air quality data from the 3 most recent years of quality assured monitoring data available at that time, i.e., 2013 to 2015. However, states and tribes may also have preliminary information about 2016 monitoring data that could help inform their recommendations. Based upon these monitoring data and any other available information, states and tribes should identify areas as attainment, nonattainment, or unclassifiable.² If

¹ Guidance to Regions for Working with Tribes during the National Ambient Air Quality Standards (NAAQS) Designations Process. Memorandum from Stephen D. Page, Director, EPA OAQPS to Regional Administrators, Regions I-X. December 20, 2011. Available at <http://www.epa.gov/ttn/oarpg/t1/memoranda/20120117naaqsguidance.pdf>.

² For the initial area designations for the 1997 ozone NAAQS and the 2008 ozone NAAQS, the EPA used a designation category of "unclassifiable/attainment" for areas that were monitoring attainment and for areas that did not have monitors but for which the EPA had reason to believe were likely attainment and were not contributing to nearby violations. The EPA reserved the category "unclassifiable" for areas where the EPA could not determine based on available information whether the area was meeting or not meeting the NAAQS and the EPA had not determined that the area contributed to a nearby violation. While states can submit recommendations identifying areas as "attainment," the EPA expects to continue to use the "unclassifiable/attainment" category for designations for the 2015 ozone NAAQS.

the EPA believes it is necessary to make any modifications to a state's or tribe's initial recommendations, including area boundaries, then the EPA will notify the state or tribe by letter of the intended modification no later than 120 days prior to finalizing the designation. These notifications are commonly known as the "120-day letters." Consistent with the statutory requirement that the EPA designate areas no later than 2 years following promulgation of a revised NAAQS, the EPA expects to complete the initial area designations by October 1, 2017. Thus, the EPA intends to issue the 120-letters no later than June 2, 2017. If a state or tribe has additional information that it wants the EPA to consider with respect to a designation recommendation that the EPA plans to modify, then the EPA requests that such information be submitted no later than 60 days from the date of the 120-day letter. This schedule will ensure that the EPA can fully consider any such additional information prior to issuing final designations. Also, although section 107(d) of the CAA explicitly exempts the designation process from the public notice and comment rulemaking process, the EPA intends to consider public input in the designation process. Accordingly, we plan to provide a 30-day public comment period immediately following issuance of the 120-day letters responding to the designation recommendations from states and tribes.³ Attachment 1 summarizes this anticipated schedule.

Identifying Nonattainment Areas

Section 107(d)(1) of the CAA directs the EPA to designate an area "nonattainment" if it is violating the NAAQS or if it is contributing to a violation of the NAAQS in a nearby area. Thus, the first step in the designation process is to identify air quality monitoring sites with data that show a violation of the 2015 ozone NAAQS. Violations are identified using data from Federal Reference Method (FRM) and Federal Equivalent Method (FEM) monitors that are sited and operated in accordance with 40 CFR part 58. Procedures for using the air quality data to determine whether a violation has occurred are given in 40 CFR part 50 Appendix U, as revised in conjunction with the final rule for the 2015 ozone NAAQS (80 FR 65292, October 26, 2015). For designations for the 2015 ozone NAAQS, the EPA intends to evaluate areas using the most recent complete three consecutive calendar years of quality-assured, certified air quality data in the EPA Air Quality System (AQS).⁴ In accordance with 40 CFR 58.15, states are required to certify their air monitoring data for the previous year by May 1 of each year. Although generally the EPA will use such data only if they have been certified by the reporting organization, data not certified by the reporting organization can nevertheless be used if the deadline for certification has passed and the EPA judges the data to be complete and accurate. We expect that in providing designation recommendations to the EPA by October 1, 2016, states and tribes will review and rely on air quality data from 2013 to 2015. States and tribes may also review and consider preliminary 2016 data, although those data cannot be relied on until they are either certified in accordance with 40 CFR 58.15 or the date for certification has passed. Air quality monitoring data from 2016 are required to be certified and quality assured by May 1, 2017. Because the certification date will have passed and the data will be available, the EPA expects to base final designation decisions by October 1, 2017, on data

³ Section 107(d)(2) explicitly provides that designations are exempt from the notice and comment provisions of the Administrative Procedure Act (APA). Likewise, designations under section 107(d) of the CAA are not among the list of actions that are subject to the notice and comment procedures of CAA section 307(d). Thus, neither the CAA nor the APA require notice and comment rulemaking for promulgation of the designations for these or any other NAAQS. However, the EPA intends to solicit direct public comment on its preliminary responses to the initial area designation recommendations of the states and tribes because we believe this process will be useful to gather additional information and to assure that the agency is more directly aware of issues raised by initial area designations.

⁴ This information is available on the EPA's website at <http://www2.epa.gov/aqs>.

from 2014 to 2016.⁵ For this reason, the EPA encourages states and tribes to review and consider preliminary 2016 air quality data in their designation recommendations. States and tribes may also update their designation recommendations based on 2016 data once the data have met the certification requirements.

The EPA notes that in past designations, some states have chosen to certify air quality data prior to the certification deadline (i.e., “early certify”) so that the EPA could rely on the newer data for designations. For multistate nonattainment areas, there have been situations where some, but not all, of the states with portions in the area have chosen to early certify their data. In such cases, the “most recent air quality data” for the area is a mix of two different 3-year periods – an earlier time period for those states that did not early certify data and a later time period for those states that chose to early certify. The most common situation is where one state that is part of the multistate area early certifies data that show attainment of the NAAQS. The other is where one state early certifies data that show a violation. The EPA’s position is that the agency cannot review mixed years of data to conclude that an area is attaining the standard; the decision must be based on the same 3-year period for all portions of the area. In contrast, if the early certified data for one state’s portion of a multistate area indicate a violation of the NAAQS, the EPA’s position is that the agency must consider the violating monitor and assess what nearby areas contribute to the violation.⁶

The process for evaluating the appropriate designation for areas that are not violating the NAAQS, but may be contributing to the violations of the NAAQS in a violating area, is discussed below in connection with the process for determining appropriate nonattainment area boundaries.

Exceptional Events and Designations

When certain criteria are met, the CAA and the EPA’s implementing regulations specified in the Final Rule on the Treatment of Data Influenced by Exceptional Events (72 FR 13560, March 22, 2007)⁷ allow for the exclusion of air quality monitoring data from design value calculations when there are exceedances caused by exceptional events. A design value describes the air quality status of a given location relative to the level of the NAAQS. A design value calculated using a data set from which exceptional event-influenced data have been excluded has the potential to affect initial area designations and nonattainment area classifications for the 2015 ozone NAAQS.

In the 2015 ozone NAAQS final rule, the EPA established schedules for air agencies to flag data influenced by exceptional events and submit related documentation for data that will be used in the initial designations process for the 2015 ozone NAAQS (*see* Attachment 2). Although some of these deadlines are accelerated compared to the general schedule timelines in the 2007 Exceptional Events

⁵ In the final rule for the 2015 ozone NAAQS, the EPA also finalized changes to the ambient air monitoring requirements applicable to the ozone NAAQS. In 32 states and the District of Columbia, the final rule extends the ozone season. The new ozone season requirements do not take effect until January 1, 2017.

⁶ The Court of Appeals for the D.C. Circuit upheld this approach as reasonable. *Miss. Comm’n on Env’tl. Quality v. EPA*, 790 F.3d 138, 160 (D.C. Cir. 2015).

⁷ On November 10, 2015, the EPA proposed revisions to the 2007 Exceptional Events Rule and announced the availability for public comment of a draft guidance document, which applies the proposed rule revisions to wildfire events that could influence monitored ozone concentrations. *See* 80 FR 72840, November 20, 2015. The EPA intends to finalize these rule revisions and the wildfire guidance by the October 1, 2016, date by which states, and any tribes that wish to do so, are required to submit their initial designation recommendations for the 2015 ozone NAAQS.

Rule, they were promulgated to align closely with the timing of the initial designations recommendations from states and tribes in October 2016 and/or the EPA's expected issuance of 120-day letters pertaining to designations by June 2017. These schedules reflect the EPA's interest in ensuring that we can fully consider exceptional events claims that could influence the final designations decisions.

The EPA regional offices are encouraged to work with states and tribes with exceptional events claims to prioritize and expedite the demonstration development and review process for those claims that have the potential to influence regulatory decisions, such as the initial designations process. Similarly, the EPA encourages states and tribes to contact and collaborate with the appropriate EPA regional office after identifying any exceptional events that influence ambient air quality concentrations in a way that could potentially affect designations for the 2015 ozone NAAQS. The EPA has developed interim exceptional events implementation guidance documents that air agencies can use when reviewing potential exceptional events and developing appropriate exceptional event demonstrations. Additional information and examples of exceptional event submissions and best practice components can be found at the EPA's exceptional events website located at <http://www2.epa.gov/air-quality-analysis/treatment-data-influenced-exceptional-events>.

Nonattainment Area Analyses and Boundary Determination

The EPA believes that the boundaries for each nonattainment area should be evaluated and determined on a case-by-case basis considering the specific facts and circumstances unique to the area. Section 107(d) explicitly requires that the EPA designate as nonattainment not only the area that is violating the pertinent standard, but also those nearby areas that contribute to the violation in the violating area. After identifying each monitor that indicates a violation of the 2015 ozone NAAQS in an area, the EPA will determine which nearby areas contribute to the violation(s).

Ground-level ozone is not emitted directly into the air, but is formed by chemical reactions primarily between oxides of nitrogen (NO_x) and volatile organic compounds (VOC) that are attributable to a variety of emission sources commonly found throughout urbanized areas. Because ozone and its precursor emissions are pervasive and readily transported, the EPA believes it is important to examine ozone-contributing emissions across a relatively broad geographic area associated with a monitored violation. Thus, for analyzing whether nearby areas contribute to a violating area, the EPA intends to consider information relevant to designations associated with the counties in the Combined Statistical Area (CSA) or, where appropriate, the Core Based Statistical Area (CBSA) in which the violating monitor(s) are located. The CSAs and CBSAs are delineated by the Office of Management and Budget (OMB) as part of their Metropolitan and Micropolitan Statistical Area program.⁸ The CBSA is a collective term that refers to both Metropolitan Statistical Areas (MSAs) and Micropolitan Statistical Areas (Micropolitan Areas), which are distinguished by size. An MSA has at least one urban area with a population of at least 50,000. A Micropolitan Area has at least one urban area with a population of at

⁸ OMB adopted revised standards for defining Metropolitan and Micropolitan Statistical Areas on December 27, 2000 (65 FR 82229). These standards established the terms CSA and CBSA. In 2010, OMB further revised the standards for delineating Metropolitan and Micropolitan Statistical Areas (75 FR 37246, June 28, 2010). The statistical areas are delineated based on U.S. Census Bureau information. The EPA intends to use the 2010 standards and the associated lists of CSAs and CBSAs issued in February 2013. These lists and their geographic components are provided at <http://www.census.gov/population/metro/>.

least 10,000, but less than 50,000. Each CBSA consists of a county or counties associated with at least one urban core, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties with the counties containing the core.⁹ A CSA includes two or more adjacent CBSAs.

The EPA previously reviewed relevant information associated with OMB statistical area boundaries when analyzing nonattainment areas for the 1997 and 2008 ozone standards. We believe this is a reasonable approach to ensure that the nearby areas most likely to contribute to a violating area are evaluated.¹⁰ The EPA emphasizes it does not intend the statistical area boundary to be a presumed nonattainment area boundary. The area-specific analyses may support nonattainment boundaries that are smaller or larger than the CSA or CBSA.¹¹ Where a violating monitor is not located in a CSA or CBSA, the EPA intends to review relevant information associated with the county containing the monitor and, if appropriate, other adjacent nearby counties. The EPA will determine the nonattainment area boundaries through a weight-of-evidence analysis for the area based on synthesizing the assessments of the five factors identified below. In relatively urbanized areas, the nonattainment area boundary may include an entire metropolitan area. In rural locations, the nonattainment area boundary may include one or more small population centers, each with sources that contribute to a violating monitor. In some cases, the boundary for a nonattainment area may include portions of two or more states, thus resulting in a multistate area. This approach to designations has been upheld by numerous courts under a variety of challenges.

Consistent with past designations for ozone NAAQS, for area-specific analyses through which the EPA intends to determine area boundaries, the EPA will evaluate information relevant to five factors: air quality data, emissions and emissions-related data, meteorology, geography/topography, and jurisdictional boundaries. The EPA also recommends that states and tribes base their boundary recommendations on an evaluation of information relevant to these five factors. Attachment 3 describes these factors in general and provides guidance regarding analyses relevant to each of these factors.¹² Additionally, the EPA, states and tribes may identify and evaluate other relevant information or circumstances specific to a particular area to support nonattainment area boundary recommendations.

⁹ The geographic components of CBSAs are counties and equivalent entities (boroughs and census areas in Alaska, parishes in Louisiana, independent cities in Maryland, Missouri, Nevada, and Virginia, and municipios in Puerto Rico).

¹⁰ The EPA notes that for the purpose of the designations for the 1-hour ozone standards at the time the CAA was amended in 1990, CAA section 107(d)(4)(A)(iv) and (v) specified the use of the OMB statistical areas as the boundaries that applied by operation of law for the then-existing nonattainment areas classified as Serious, Severe, and Extreme, unless a governor made a demonstration to the satisfaction of the EPA Administrator that a portion did not contribute.

¹¹ The Court of Appeals for the D.C. Circuit upheld the EPA's interpretation of the term "nearby" as being reasonable and consistent with the statute. *Miss. Comm'n on Env'tl. Quality v. EPA*, 790 F.3d 138, 160 (D.C. Cir. 2015).

¹² In the designation guidance for the 2012 PM_{2.5} NAAQS, the EPA used these same five factors. In prior designation guidance for the ozone and PM_{2.5} standards, the EPA identified nine factors to consider in making designation recommendations: emissions data, air quality data, population density and degree of urbanization, traffic and commuting patterns, growth rates and patterns, meteorology, geography/topography, jurisdictional boundaries, and level of control of emission source. In the area analyses to support the designations for the 2008 ozone standards, the EPA grouped the emissions-related factors together in the emissions and emissions-related data factor, resulting in five overall factors. The Court has upheld the EPA's use of a multi-factor test for designations multiple times. See *Mississippi Commission on Env. Quality v. EPA* 709 F.3d 138 (D.C. Cir. 2015); *ATK Launch Sys., Inc. v. EPA*, 669 F.3d 330 (D.C. Cir. 2012); *Catawba Cnty., v. EPA*, 571 F.3d 20 (D.C. Cir. 2009).

While the EPA generally believes it is appropriate to include the entire violating or contributing county in an ozone nonattainment area, we recognize that, in some cases, an assessment of relevant information may support inclusion of only part of a county. For example, as has been the case in past designations, there may be low elevation areas (e.g., valleys) with poor air quality in violation of the NAAQS due to restricted atmospheric dispersion where higher elevations (e.g., mountainous areas) in the same county can be shown not to have sources of emissions that contribute to the violation. Alternatively, partial county boundaries may be appropriate in situations where the sources located in a contributing county are located only in a portion of a large county that is otherwise not contributing to the nearby violations. Particularly in the western United States where counties are large, including only partial counties in a designated nonattainment area may be appropriate. For defining partial county boundaries, the EPA recommends the use of well-defined legal jurisdictional boundaries such as townships, census blocks, immovable landmarks (e.g., major roadways), or other permanent and readily identifiable boundaries.

In addition, as provided for in the December 20, 2011, guidance titled, “Policy for Establishing Separate Air Quality Designations for Areas of Indian Country,” tribes may recommend that the EPA designate areas of Indian country separately from the adjacent state areas.¹³ This guidance provides for a nationally consistent approach for evaluating such designation recommendations from tribes. The policy was designed to recognize tribal sovereignty in air quality management matters affecting Indian country.

Nonattainment Area Classifications

As provided in CAA section 181(a)(1), at the time of initial designations, the EPA will classify all nonattainment areas according to the severity of the ozone air quality problem. The classification categories are Marginal, Moderate, Serious, Severe-15, Severe-17 and Extreme. The EPA previously interpreted the air quality thresholds associated with each classification through rulemaking for both the 1997 and 2008 ozone NAAQS. We intend to take a similar approach for the 2015 ozone NAAQS and will finalize the rulemaking no later than the promulgation of the final designations.

Under CAA section 181(a)(4), the EPA has the discretion to reclassify a nonattainment area to a higher or lower classification (also known as a bump up or a bump down) within 90 days of the effective date of the initial designation and classification if the area would have been classified in another category had the area’s design value been 5 percent greater or 5 percent less than the level on which the initial classification was based. The EPA does not intend to exercise its authority independently to initiate a reclassification of an area to a higher or lower classification. Rather, the EPA intends to rely on a state or tribe to submit a request for such a reclassification. As part of the action to designate and classify areas in 1991 for the 1-hour NAAQS, the EPA developed criteria for evaluating a state’s request to reclassify a particular area to a lower classification. *See* 56 FR 56698, November 6, 1991. The EPA intends to continue to use the same approach for purposes of evaluating a request to reclassify an area to a lower classification for the 2015 ozone NAAQS. In the *Federal Register* action to designate areas for the 2015 ozone NAAQS, the EPA will provide the schedule for submitting a reclassification request under section 181(a)(4) that would allow sufficient time for the EPA to make a determination within the 90-day period allowed under the CAA.

¹³ Memorandum from Stephen D. Page, Director, EPA OAQPS to Regional Administrators, Regions I-X. December 20, 2011. Available at <http://www.epa.gov/ozone-designations>.

Section 181(b)(3) of the CAA allows a state to voluntarily request that the EPA reclassify a nonattainment area in that state to a higher classification. The EPA must grant the request. Multistate nonattainment areas present a special case because the area is not wholly in one state and classifications apply areawide. For multistate nonattainment areas, the EPA strongly encourages all of the states with a portion included in the nonattainment area to consult and agree prior to submission of a reclassification request. Section 181(b)(3) does not place a time limit on the opportunity for a state to request a voluntary reclassification of a nonattainment area to a higher classification. These voluntary reclassifications can be done at any time.

Rural Transport Areas

The EPA recognizes that violations of the ozone standards in some rural areas may be almost entirely attributable to emissions from upwind areas and/or sources of background ozone. Section 182(h) provides the EPA with the discretion to treat an ozone nonattainment area as a “rural transport area” (RTA), provided the area meets certain criteria. Regardless of the area’s classification under section 181(a), an RTA is deemed to have fulfilled all ozone-related planning and control requirements if it meets the CAA’s planning requirements for areas classified as Marginal.¹⁴ To qualify as an RTA, the EPA must determine that the nonattainment area boundary does not include and is not adjacent to any part of an MSA¹⁵, and that the area does not contain VOC and NO_x emissions sources that make a significant contribution to monitored ozone concentrations in the area or in other areas. A nonattainment area that includes, or is adjacent to, any part of a Micropolitan Statistical Area or that is too sparsely populated to be included in a statistical area, may be able to qualify as an RTA.

States and tribes that believe a potential nonattainment area qualifies for treatment as an RTA are encouraged to request, as part of their recommendations, that the EPA use the section 182(h) authority and to work with the EPA to develop and review information that would satisfy the CAA’s RTA criteria. In general, the EPA expects a rural nonattainment area that has few or insignificant sources of ozone precursors to encompass a relatively small geographic area due to the lack of emission sources. Therefore, partial county boundaries may be appropriate. The EPA expects this to be especially relevant in the western United States, where many of the counties are large. A partial county nonattainment area located in a county that is adjacent to an MSA may still be able to qualify as an RTA provided that the nonattainment area boundary is not adjacent to the MSA boundary. The EPA intends to respond to any RTA request submitted during the designation process at the time the EPA promulgates the initial area designations. However, the EPA notes that a state or tribe may also request RTA treatment for a nonattainment area after the initial designations are completed. Attachment 3 provides information on conducting an analysis to support an RTA request.

¹⁴ The requirements applicable to ozone transport regions supersede the Marginal requirements for RTAs.

¹⁵ The rural transport area criteria in section 182(h) restrict rural transport areas to those nonattainment areas that do not include and are not adjacent to any part of a “MSA” or “CMSA” as defined at the time of the 1990 CAA amendments. The OMB issued revised statistical area standards in 2000 that replaced the pre-existing MSA and CMSA definitions and established the terms “CBSAs” and “CSA.” In 2010, OMB further revised the standards. The CBSA is a collective term that includes MSAs and Micropolitan Statistical Areas. The EPA interprets the references to both MSA and CMSA in CAA section 182(h) to refer to OMB’s current definition of MSA. *See* 80 FR 12264, March 6, 2015. The EPA believes this interpretation of CAA section 182(h) is consistent with the original scope of CAA section 182(h) as promulgated in 1990.

Unclassifiable Areas

In certain cases, there may be insufficient information to support a designation of nonattainment or attainment for an area. For example, there may be monitors that indicate an exceedance of the NAAQS, but the monitoring data may be incomplete or the monitors may not be sited and operated in accordance with the regulatory requirements of 40 CFR part 58. In recommending boundaries for an unclassifiable area, states should consider which nearby areas contribute to ambient air quality within the impacted area. The EPA notes that if sufficient information later becomes available indicating a monitor in the unclassifiable area is violating the NAAQS and the EPA redesignates the area to nonattainment, the EPA likely would conduct a weight-of-evidence analysis as described in Attachment 3 of this guidance to determine the appropriate area boundaries.

Attainment Areas

Once the EPA has determined the boundaries for nonattainment areas (areas that are violating the NAAQS or contributing to a nearby violation) and any unclassifiable areas, the EPA intends to designate the remainder of the state as unclassifiable/attainment.¹⁶ The EPA requests that states and tribes recommend how they would like the boundaries drawn for their unclassifiable/attainment areas. For designations for the 1-hour and two previous 8-hour ozone NAAQS, states have elected to draw boundaries for the unclassifiable/attainment areas in a variety of ways, including as “rest of state” or “entire state,” by Air Quality Control Regions, by county, by previous nonattainment area boundaries, or by a combination of methods. The EPA recommends that the boundaries of unclassifiable/attainment areas generally not be smaller than a county.

Summary

This memorandum provides the EPA’s preliminary views on the process for determining initial area designations and boundaries for the 2015 ozone NAAQS. Any guidance contained herein is not binding on states, tribes, the public or the EPA. The EPA will make the designations determinations and nonattainment area boundary decisions in the final action that designates all areas for the 2015 ozone standards. When the EPA promulgates the initial area designations, those decisions will be binding on states, tribes, the public and the EPA as a matter of law.

Three attachments provide additional information relevant to the initial ozone area designations process. Attachment 1 is an anticipated timeline of important milestones in the initial area designations process for the 2015 ozone NAAQS. Attachment 2 identifies the promulgated exceptional event schedule for initial data flagging and submission of exceptional event demonstrations. Attachment 3 provides information on the five factors that the EPA intends to consider in evaluating and making decisions on nonattainment area boundaries and provides guidance regarding analyses relevant to support each of the factors. Attachment 3 also provides information on conducting an analysis to support an RTA request.

¹⁶ As indicated in footnote 2, in the initial designations for previous ozone NAAQS, the EPA used a designation category of “unclassifiable/attainment” for areas that were monitoring attainment and for areas that did not have monitors but for which the EPA had reason to believe were likely attainment and were not contributing to nearby violations. The EPA expects to continue this approach for designations for the 2015 ozone NAAQS.

Staff in the EPA's Office of Air Quality Planning and Standards are available for assistance and consultation throughout the initial area designation process. Questions on this guidance may be directed to Carla Oldham at (919) 541-3347 or Denise Scott at (919) 541-4280.

Attachments (3)

1. Anticipated Timeline For 2015 Ozone NAAQS Designation Process
2. Revised Schedule For Exceptional Event Flagging And Documentation Submission For Data To Be Used In Initial Area Designations For The 2015 Ozone NAAQS
3. Factors the EPA Plans to Consider in Determining Nonattainment Area Boundaries in Designations for the 2015 Ozone NAAQS, and Guidance on Analyses to Support these Factors

ATTACHMENT 1

ANTICIPATED TIMELINE FOR 2015 OZONE NAAQS DESIGNATION PROCESS	
Milestone	Date
The EPA promulgates 2015 Ozone NAAQS rule	October 1, 2015
States and tribes submit recommendations for ozone designations to the EPA	No later than October 1, 2016
The EPA notifies states and tribes concerning any intended modifications to their recommendations (120-day letters)	No later than June 2, 2017 (120 days prior to final ozone area designations)
The EPA publishes public notice of state and tribal recommendations and the EPA's intended modifications, if any, and initiates 30-day public comment period	On or about June 9, 2017
End of 30-day public comment period	On or about July 10, 2017
States and tribes submit additional information, if any, to respond to the EPA's modification of a recommended designation	No later than August 7, 2017
The EPA promulgates final ozone area designations	No later than October 1, 2017

ATTACHMENT 2

Revised Schedule for Exceptional Event Flagging and Documentation Submission for Data to be Used in Initial Area Designations for the 2015 Ozone NAAQS

NAAQS Pollutant/ Standard/(Level)/ Promulgation Date	Air Quality Data Collected for Calendar Year	Event Flagging & Initial Description Deadline	Detailed Documentation Submission Deadline
Ozone/ Primary and Secondary 8-hour Standards (0.070 parts per million) Promulgated October 1, 2015	2013, 2014, 2015	July 1, 2016	October 1, 2016
	2016	May 31, 2017	May 31, 2017

ATTACHMENT 3

Factors the EPA Plans to Consider in Determining Nonattainment Area Boundaries in Designations for the 2015 Ozone NAAQS, and Guidance on Analyses to Support these Factors

For initial area designations for the 2015 ozone national ambient air quality standards (NAAQS), the Environmental Protection Agency will rely on monitoring data to identify areas to be designated nonattainment due to monitored violations of the standard. Consistent with the directives of the Clean Air Act (CAA) and with previous area designation processes, the EPA will then determine the appropriate nearby¹ areas to include within the nonattainment area boundary for the violating area, based on emissions that contribute to these violations. For each monitor or group of monitors indicating a violation of the NAAQS, the EPA intends to assess information related to five factors for the purpose of establishing the appropriate geographic boundaries for designated ozone nonattainment areas. The EPA will evaluate relevant information from the entire area (i.e., Combined Statistical Area / Core Based Statistical Area) containing the violating monitor(s) and any adjacent counties or nearby areas that have the potential to contribute. For those portions of the area where an evaluation of the available information clearly establishes that emissions sources do not contribute to exceedances at the violating monitor(s), the EPA believes it would be appropriate to exclude that portion of the area from the nonattainment area. This weight-of-evidence approach to determining area boundaries could result in nonattainment areas consisting of an entire metropolitan area, single counties, or, in cases supported by relevant evidence, partial counties, including partial counties within larger urban areas or in relatively isolated locations. While technical assessments can help to define the magnitude or relative magnitude of contribution from nearby areas, the EPA is not setting a threshold contribution level or “bright line” test for determining whether a contributing area should be included within the boundaries of a given nonattainment area. Section 107(d) of the CAA does not require the EPA to set a threshold contribution. As was done in prior NAAQS designations, the EPA believes that the contribution determination should be made through a case-by-case evaluation of the relevant facts and circumstances in each nonattainment area.

As a framework for area-specific analyses to support nonattainment area boundary recommendations and final boundary determinations, the EPA believes it is appropriate to evaluate the following five factors:

1. air quality data,
2. emissions and emissions-related data,
3. meteorological data,
4. geography/topography, and
5. jurisdictional boundaries.

The EPA notes that these five factors are comparable to the factors that states and tribes and the EPA have used successfully for analytical purposes in prior designations. The recommendation of these factors is not intended to indicate that other relevant information should not be considered in the initial area designations process, as appropriate. Where a state or tribe includes additional information or analysis as part of its recommendation, the EPA will evaluate that information as part of its review in determining the appropriate nonattainment area designation.

¹ The Court of Appeals for the D.C. Circuit upheld the EPA’s interpretation of the term “nearby” as being reasonable and consistent with the statute. *Miss. Comm’n on Env’tl. Quality v. EPA*, 790 F.3d 138, 160 (D.C. Cir. 2015).

This attachment is intended to provide guidance regarding available data that states and tribes may wish to assess when evaluating these five factors. This guidance also provides insight into the EPA’s subsequent review and evaluation of the state and tribal nonattainment area boundary recommendations. The guidance offers suggestions about techniques and approaches; it does not contain requirements to be strictly followed and should not be read as prescriptive with respect to the specific techniques recommended.

The EPA recognizes that some of the recommended assessments can be resource intensive. To help mitigate this potential concern, the EPA intends to provide an Ozone Designations Mapping Tool to assist air agencies in developing their area designation and nonattainment boundary recommendations and to provide the relevant data to facilitate the analyses. The EPA will make the Ozone Designations Mapping Tool available on the ozone designations website.² The table below outlines the datasets that the EPA expects to make available to the public on the ozone designations website and the expected date of availability. Design values for the 3-year period 2012 – 2014 are currently available³ and will also be posted on the ozone designations website. The EPA will update this website during the initial area designations process as other relevant datasets are identified.

Datasets the EPA will Provide via the EPA Ozone Designations Website

Dataset	Expected Availability Date
2013 – 2015 Ozone Design Values	Summer 2016
2014 – 2016 Ozone Design Values	Summer 2017
Nitrogen Oxide (NO _x)/VOC Point sources and county level emissions and Vehicle Miles Traveled (VMT) from 2011 National Emissions Inventory (NEI) ⁴ version 2	March 2016
County and Census Tract Population	March 2016
HYSPLIT Trajectory data *	March 2016
Geography/Topography *	March 2016
Jurisdictional Boundaries *	March 2016

* Separate datasets will not be provided. The information will be part of the web-based Ozone Designations Mapping Tool.

This guidance also offers recommendations concerning how states and tribes may wish to describe the basis for their initial designations recommendations. The EPA recommends that states and tribes articulate those recommendations in a narrative format. Thus, this guidance provides some direction regarding the content and structure of a narrative that describes the problem in a potential nonattainment area with monitors violating the NAAQS. A comprehensive narrative would articulate a conceptual model of the area that explains the nature and causes of the ozone air quality problem in the specific area, identifies the scope and scale of the air quality problem in that area, and describes all nearby emission sources that contribute to the problem.⁵ For multistate or multi-jurisdictional areas, the EPA

² <http://www.epa.gov/ozone-designations/>

³ <http://www3.epa.gov/airtrends/values.html>

⁴ The 2014 NEI may not be available for initial designation recommendations. If it becomes available, then it will be considered in lieu of the 2011 NEI.

⁵ Chapter 2.1 of the EPA’s Draft Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, PM_{2.5}, and Regional Haze has a detailed description of how to develop a sound conceptual description of an air quality problem. The document is located at: http://www3.epa.gov/ttn/scram/guidance/guide/Draft_O3-PM-RH_Modeling_Guidance-2014.pdf.

encourages states and tribes to work collaboratively to develop a single narrative. However, states or tribes with areas contributing to potential multistate or multi-jurisdictional nonattainment areas could also develop a conceptual model that describes only the contribution from the areas within their jurisdiction to the larger nonattainment area, rather than attempting to describe the scope and scale of the air quality problem throughout the entire area. Where a single area-wide narrative on the causes of the ozone air quality problem is not developed, the EPA will collectively use the information in all relevant submittals, along with other relevant data, to make its decision on the extent and designation of the multi-state area.

The underlying analytical framework of the recommended narrative can be summarized as follows:

- Determine violating monitors with design values greater than the NAAQS and gather data that enables an assessment of potential nearby contributing areas and the emissions sources (NO_x and VOC) in those areas.
- Assess and characterize the spatial and temporal differences in ozone concentrations within the area using data from Federal Reference Method (FRM)/Federal Equivalent Method (FEM) ozone monitors, as well as data from other FRM/FEM ozone monitors in nearby areas, if available.
- Areas may find it useful to assess and characterize the area-specific sensitivity of ozone formation to NO_x and VOC emissions. The amount of ozone formed in any given area depends on the amount of NO_x, VOC, and sunlight available to interact in a set of complex chemical reactions to form ozone. Depending on the local situation, peak ozone concentrations may be NO_x-sensitive, VOC-sensitive, or a mix of the two depending upon other conditions. Understanding the relative role of local NO_x and VOC emissions sources to ozone formation in the area violating the NAAQS helps identify which nearby emissions sources may be contributing to the monitored violations. Ambient data analyses and/or photochemical modeling simulations can be used to assess and characterize local ozone sensitivities.
- The information identified in the previous bullets can be evaluated in conjunction with emissions data and emissions-related data (e.g., vehicle miles traveled and population) to determine which source categories and source regions are contributing to the monitored violations.
- Once the emissions and air quality assessments have been evaluated, it is valuable to then assess the meteorology during the ozone season in the violating area. Weather patterns will have a large impact on the determination of contributing source regions. This analysis may further help to identify the relative magnitude of contributions from emission sources in nearby areas.
- Additionally, it may be useful to assess any geographic/topographic information, which could have consequences for transport, meteorology, and ozone formation in the area.
- Finally, all of the above assessments would be aggregated or synthesized into a consistent narrative that describes the relationship between sources in the analysis area and the measured exceedances. It will also be useful to assess jurisdictional considerations that could be relevant in identifying a nonattainment area boundary. This synthesis should represent a collective “weight-of-evidence” regarding the most appropriate boundaries for the nonattainment area.

While the general 5-factor framework is expected to be comprehensive and provide the foundation for each assessment of area boundaries, the extent of the analyses may vary on an area-by-area basis based on the nature, cause, and extent of the ozone air quality problem. This guidance suggests analyses of certain data sets that can be useful to assess which nearby areas contribute to nonattainment in a given area. In cases where more highly-resolved or newer data sets are available that are not explicitly mentioned in this guidance, states and tribes should consider their use. If these data are used, the EPA recommends that the states or tribes fully describe the data and their derivation in their supporting documentation for the designation recommendation.

The following sections provide more detail on the five factors and the weight-of-evidence approach that the EPA plans to consider when evaluating state and tribal recommendations and determining nonattainment area boundaries for the 2015 ozone NAAQS.

1. Air Quality Data

Ozone in the troposphere is a secondary pollutant formed by photochemical reactions of precursor gases and is not directly emitted from specific sources. Ozone is formed by atmospheric reactions involving two main classes of precursor pollutants: VOCs and NO_x. The formation of ozone is a complex, nonlinear function of many factors, including the intensity of sunlight, atmospheric mixing, the concentration of ozone precursors in the air, and the rates of chemical reactions of these precursors. Ozone is largely regional in nature with some higher values occurring in locations with ozone-conducive emissions, meteorological conditions, or transport patterns.

The first step in identifying an area to be designated nonattainment and to determine an appropriate nonattainment area boundary is to identify all monitored violations of the NAAQS using the most recently available design values. The EPA determines NAAQS compliance by considering the design value for each air quality monitoring site. The design value for the 2015 ozone NAAQS is the 3-year average of the annual 4th highest daily maximum 8-hour average concentrations.⁶ Only ozone measurement data collected in accordance with the quality assurance (QA) requirements⁷ using approved FRM/FEM monitors can be used for NAAQS compliance determinations. The EPA uses FRM/FEM measurement data residing in the EPA's Air Quality System (AQS) to calculate the ozone design values. Individual measurements that the EPA determines to be "exceptional" in accordance with the Exceptional Events Rule⁸ (such as days with poor air quality caused by wildland fire) are not included in these calculations. State and tribal monitoring agencies are required to annually certify data submitted to AQS by May 1st of the subsequent year.⁹ A tribal monitoring agency must certify its data if the tribe is monitoring for regulatory purposes. A tribe may also be specifically required to certify its data under terms of a grant from EPA. Tribes should consult with the appropriate Regional office on questions regarding regulatory monitoring and the certification process. The EPA typically extracts ambient data from AQS and calculates official design values for regulatory purposes shortly after the

⁶ The specific methodology for calculating the ozone design values, including computational formulas and data completeness requirements, is described in 40 CFR part 50, Appendix U.

⁷ The QA requirements for ozone monitoring data are specified in 40 CFR part 58, Appendix A.

⁸ Final Rule on the Treatment of Data Influenced by Exceptional Events (72 FR 13560, March 22, 2007). Note, on November 10, 2015, the EPA proposed revisions to the 2007 Exceptional Events Rule and issued a draft guidance document for wildfire ozone events. The EPA intends to finalize the rule revisions and guidance before the October 1, 2016, deadline for state and tribal designations recommendations.

⁹ Data certification requirements can be found in 40 CFR, part 58.15. The EPA has developed guidance related to the data certification process that can be found at: <http://www3.epa.gov/ttn/amtic/qacert.html>.

certification due date. The design values calculated using this data undergo review by the EPA regional offices, and the final design values are then posted on a public website.¹⁰ Initial state and tribal designation recommendations due October 1, 2016, should focus on design values based on air quality data from 2013 to 2015; however, the EPA intends to make final designation decisions using design values based on the 2014 to 2016 certified air quality data.

In addition to identifying monitors where the most recent design values violate the NAAQS, examining historical ozone air quality measurement data (including previous design values) can improve our understanding of the nature of the ozone ambient air quality problem in an area and thereby, inform decisions regarding the nonattainment area boundary. Since ozone concentrations are substantially impacted by meteorological conditions, including local wind patterns and synoptic weather patterns, the frequency and spatial distribution of exceedances of the standards can vary from year-to-year. This can be revealed by examining how frequently exceedances of the standard have occurred at the monitor with the highest design value for the area and at other monitor locations in the area under consideration, and how the spatial pattern in ozone concentrations across the area varies over time. This information can help to identify spatial and temporal patterns in the air quality of a given area and, when combined with other information from the 5-factor review, can help identify nearby areas with emissions sources contributing to an area with a monitored violation.

2. Emissions and Emissions-Related Data

The sources and levels of emissions of ozone-precursor pollutants are important factors in the initial area designations process. As noted above, ambient ozone is formed through complex atmospheric processes. Air quality in a nonattainment area is also typically the result of a combination of regional and local emissions. In the designations process, for each area with a violating monitor, the EPA evaluates the current emissions data from nearby counties to assess each county's potential contribution to ozone concentrations at the violating monitor(s) in the area under evaluation. It should be noted that while ozone can be transported many hundreds of miles and sources of emissions that are very distant from the potential nonattainment area may also contribute to monitored ozone levels, these far upwind emissions are not considered in the designation determination to be "nearby" sources.¹¹ Therefore, the evaluation of the area is also a means to differentiate between the impact of emissions from more distant sources and from sources in nearby areas that should be included as part of the designated nonattainment area. For initial area designations, we intend to examine current emissions of identified sources of NO_x and VOC, as guided by the local conceptual description of NO_x- and VOC-limited areas. The EPA expects that some local NO_x and VOC emissions contributions from mobile and stationary sources and transport from nearby areas can contribute to higher ozone levels at the violating monitors. Analyses should include reviewing data from the latest NEI and other relevant sources, as available. The analysis should also include examining the magnitude of county-level emissions and the geographic locations of NO_x and VOC sources.

Analyzing the magnitude and spatial extent of emissions provides information about potential spatial gradients in ozone precursor emissions. Combining these analyses (e.g., magnitude of emissions and point of release) with meteorological information can inform the evaluation of the degree of contribution from nearby areas. In addition, if the most recent emission inventories do not reflect conditions for the

¹⁰ Design values for ozone can be found at: <http://www3.epa.gov/airtrends/values.html>.

¹¹ The Court of Appeals for the D.C. Circuit upheld the EPA's interpretation of the term "nearby" as being reasonable and consistent with the statute. *Miss. Comm'n on Env'tl. Quality v. EPA*, 790 F.3d 138, 160 (D.C. Cir. 2015).

same time period as the air quality data being used to determine the nonattainment designation, then information provided on changes in emissions will be considered. These changes may include emissions reductions due to permanent and enforceable emissions controls and may include emissions increases from new sources or at existing sources.

The EPA believes that it will be appropriate to use 2011 NEI version 2 data because that will be the most recent national emissions inventory information available at the beginning of the designations process.¹² The NEI includes data, generally on an annual basis at the county level. Emissions from large stationary sources at a specific location are also available. More detailed inventories (higher resolution than county estimates) may also be available for some areas, although not in the NEI.¹³ To supplement the NEI county-level data, the EPA will provide information that could be used to understand spatial allocation within a county including the location and magnitude of large point sources. Additionally, states and tribes may wish to review gridded emissions data, which are generally available at 12 km grid resolution. These data, which can be provided by the EPA, have been created to cover emissions levels in the contiguous 48 states for 2011. These gridded emissions data can be provided by the EPA on an annual basis or for shorter time periods such as the ozone season.

Additionally, states or their regional organizations may submit their own emissions information or versions of gridded emissions for more recent years.

Population and degree of urbanization

The EPA has consolidated population and degree of urbanization within the emissions and emissions-related data factor as these elements supplement and help to inform the analysis of emissions data. The EPA intends to provide data such as population by county and census tract. An analysis of population and degree of urbanization may provide indicators of the location of emissions-related activities within the county.

The EPA expects that states and tribes may have independently developed datasets to better inform these elements. The EPA believes that population information such as the location and recent trends in population growth and the patterns of residential and commercial development can serve as potential indicators of the probable location and magnitude of emissions sources that may contribute to ozone concentrations in a given nonattainment area.

Traffic and commuting patterns

The EPA recommends examining the location of major transportation arteries and information on traffic volume and commuting patterns in and around the area containing a violating monitor. This may include examining the number of commuters in each nearby county who drive to a county within the area that has a violating monitor, the percent of total commuters in each county who commute to other counties

¹² The 2014 NEI may not be available for initial designation recommendations. If it becomes available, then it will be considered in lieu of the 2011 NEI.

¹³ The EPA develops gridded emissions by applying temporal (e.g., seasonal variations in emissions as reported to the NEI) and spatial (e.g., incorporates latitude and longitude location information as reported to the NEI) adjustments to the county-based NEI estimates to produce the more finely resolved gridded emissions. These emissions are generally available at a 12 km resolution, but may be available at finer resolutions for certain localities that have been the focus of special modeling studies.

with violating monitors within the metropolitan area, and the total VMT for each county. Areas with higher VMT and commuting activity can be an indicator of the location of mobile source emissions that may contribute to ozone concentrations at the violating monitor.

The NEI is one source of the county-wide VMT data and facilitates relative comparisons of traffic and commuting patterns between counties in a larger area.¹⁴ However, more detailed assessments provided by states or tribes could help to highlight the magnitude and location of emissions activity. The EPA will provide gridded VMT data; however, these estimates may not correspond directly with VMT data developed by state or local agencies.

3. Meteorology

Evaluation of meteorological data helps to assess the fate and transport of emissions contributing to ozone concentrations and to identify areas potentially contributing to the monitored violations. Results of meteorological data analysis may support determination of nonattainment area boundaries.

One basic type of meteorological analysis involves assessing potential source-receptor relationships in the area on days with high ozone concentrations using wind speed and wind direction data. A more sophisticated and accurate assessment involves modeling air parcel trajectories to help understand complex transport situations. The HYSPLIT (HYbrid Single-Particle Lagrangian Integrated Trajectory) modeling system may be useful for some areas to produce trajectories that illustrate the 3-dimensional paths traveled by air parcels to a violating monitor. The EPA will provide back trajectories for violating monitors, for each day of high ozone concentration (i.e., daily maximum 8 hour values that exceed the NAAQS) at those monitors. States or tribes can choose to do additional HYSPLIT modeling and guidance is provided below. If a trajectory model other than HYSPLIT is used, states or tribes should provide detailed information about the technique, how it is used, and why it is preferred over HYSPLIT.

Preparing and running a HYSPLIT modeling analysis

Atmospheric trajectory models use meteorological data and mathematical equations to simulate 3-dimensional transport in the atmosphere. Generally, the position of particles or parcels of air with time are calculated based on meteorological data such as wind speed and direction, temperature, humidity, and pressure. Model results depend on the spatial and temporal resolution of the atmospheric data used, and also on the complexity of the model itself. The HYSPLIT model¹⁵ is frequently used to produce trajectories for assessments associated with determining nonattainment area boundaries. HYSPLIT contains models for trajectory, dispersion, and deposition; however, analyses recommended here only use the trajectory component. The trajectory model, which uses existing meteorological forecast fields from regional or global models to compute advection (i.e., the rate of change of an atmospheric property caused by the horizontal movement of air) and stability, is designed to support a wide range of simulations related to the atmospheric transport of pollutants.

¹⁴ NEI county-level VMT estimates are developed in a top-down approach from Federal Highway Administration estimates of statewide VMT by road class that are allocated to counties based on surrogates. Accordingly, the NEI estimates do not always compare well to detailed area-specific studies that are developed in a more robust way (e.g., travel demand model data).

¹⁵ <http://ready.arl.noaa.gov/HYSPLIT.php>

HYSPLIT trajectories may be produced for various combinations of time and locations. When HYSPLIT trajectories are produced for specific monitor locations for days of high ozone concentrations (e.g., daily maximum 8-hour values that exceed the NAAQS), the results illustrate the potential source region for the air parcel that affected the monitor on the day of the high concentration.

While HYSPLIT is a useful tool for identifying meteorological patterns associated with exceedance events, HYSPLIT trajectories alone do not conclusively indicate contribution to measured high concentrations of ozone. Therefore, they cannot be used in isolation to determine inclusion or exclusion of an area within a nonattainment boundary. While a HYSPLIT trajectory analysis alone cannot yield a conclusion that a particular region contributes to ozone concentrations, a set of HYSPLIT trajectories that show no wind flow from a particular region on any day with high ozone concentration measurements might provide support for discounting that region as contributing to ozone concentrations. HYSPLIT trajectories are very useful in combination with information on the location and magnitude of ozone precursor emissions sources.

A HYSPLIT backward trajectory, the most common trajectory used in assessments associated with determining nonattainment area boundaries, is usually depicted on a standard map as a single line extending in two dimensional (x,y) space from a starting point, regressing backward in time as the line extends from the starting point. An individual trajectory can have only one starting height; HYSPLIT can plot trajectories of different starting heights at the same latitude/longitude starting point on the same map, automatically using different colors for the different starting heights. HYSPLIT will also include a vertical plot of the trajectories in time, with colors corresponding to the same trajectory in the (x,y) plot. This display can be easily misinterpreted as having finer accuracy than the underlying model and data.

It is important to observe the overall size of the plot, its width and length in kilometers, and consider the size of an individual grid cell in the input meteorological data set. These input grid cells are usually 40 km in width and length, so the total area of a trajectory plot may be limited. It is also important to understand the trajectory line itself. The line thickness is predetermined as a user option, so its thickness does not imply coverage other than to represent the centerline of an air parcel's motion calculated to arrive at the starting location at the starting time. Uncertainties are clearly present in these results, and these uncertainties change with trajectory time and distance traveled. One should avoid concluding a region is not along a trajectory's path if the center line of that trajectory missed the region by a relatively small distance.

Detailed information for downloading, installing, and operating HYSPLIT can be found at these websites:

<http://ready.arl.noaa.gov/HYSPLIT.php>

http://www.arl.noaa.gov/documents/reports/hysplit_user_guide.pdf

<http://www.arl.noaa.gov/documents/reports/arl-224.pdf>

HYSPLIT's many setup options allow great flexibility and versatility. However, careful selection and recording of these options is necessary to provide reviewers the ability to reproduce the model results. The following paragraphs describe the options that should be recorded, at a minimum, to enable another party to reproduce a HYSPLIT model run.

Model Version. If the HYSPLIT trajectory is produced via the NOAA Air Resources Laboratory (ARL) website (http://ready.arl.noaa.gov/HYSPLIT_traj.php), note the “*Modified:*” *date* in the lower-left corner of the webpage, as well as the date the trajectory was produced. If the trajectory is produced using a stand-alone version of HYSPLIT, note *the release date*, which will be displayed after exiting the main graphical user interface (GUI) screen.

Basic Trajectory Information. Note the *starting time* (YY MM DD HR), the *duration of the trajectory* in hours, and whether the trajectory is *backward or forward*. Note the *latitude and longitude*, as well as the *starting height*, for each *starting location*. Starting height is given by default in meters above ground level (AGL) unless another option is selected. Starting heights are typically no less than 100 meters AGL to avoid direct interference of terrain, and are typically no greater than 1500 meters AGL to confine the air parcel within the mixed layer. Some trajectories can escape the mixed layer, and this result would be considered in the interpretation.

Starting height and starting location will identify the 3-dimensional location of the trajectory’s latest endpoint in time if a backward trajectory is selected (i.e., the start of a trajectory going backward in time). Backward trajectories used in analyses associated with designations typically have a trajectory duration of 24 hours. Considering the geographic proximity of areas under consideration in ozone designations, air parcel locations within this proximity are almost always within the last 24 hours of travel to the trajectory endpoint. Air parcel locations more than 24 hours prior to trajectory end time are rarely found within this proximity.

Input Meteorological Data Set. Note the *input meteorological data set* used in the HYSPLIT model run. The *original file name* provides sufficient information to identify the data set.

Meteorological data fields to run the model are already available for access through the HYSPLIT menu system, or by direct FTP from ARL. The ARL web server contains several meteorological model data sets already converted into a HYSPLIT compatible format in the public directories. Direct access via FTP to these data files is built into HYSPLIT’s graphical user interface. The data files are automatically updated on the server with each new forecast cycle. Only an email address is required for the password to access the server. The ARL analysis data archive consists of output from the Global Data Analysis System (GDAS) and the NAM Data Analysis System (NDAS - previously called EDAS) covering much of North America. Both data archives are available from 1997 in semi-monthly files (SM). The EDAS was saved at 80 km resolution every 3-hours through 2003, and then at 40 km resolution starting in 2004. Detailed information on all meteorological data available for use in HYSPLIT can be found in the HYSPLIT4 Users Guide.¹⁶

It is possible to run the stand-alone HYSPLIT program on user-supplied meteorological data. This could be advantageous when the horizontal resolution or model physics used by ARL is inferior to other existing datasets. If a state or tribe chooses to use meteorological data not already on the ARL web server, the state or tribe should document the reason for this choice and should provide detailed information about the substituted meteorological dataset.

¹⁶ http://www.arl.noaa.gov/documents/reports/hysplit_user_guide.pdf

Vertical Motion Options. HYSPLIT can employ one of five different *methods for computing vertical motion*. A sixth method is to accept the vertical motion values contained within the input meteorological data set, effectively using the vertical motion method used by the meteorological model that created the data set. In a typical HYSPLIT application, EPA selects the option to accept the vertical motion values contained within the input meteorological data set. The user should note which method was selected as well as the value chosen for *the top of the model*, in meters AGL.

Trajectory Display Options. The HYSPLIT trajectory model generates a text output file of end-point positions. The end-point position file is processed by another HYSPLIT module to produce a Postscript display file or output files in other display formats. Some parameters, such as map projection and size, can be automatically computed based on the location and length of the trajectory, or they can be manually set by the user. While these display options do not directly affect the trajectory information itself, noting these options will eliminate possible misinterpretation of identical trajectories because of differing display options. An important display option is the choice of *vertical coordinate*, usually set to meters AGL for these assessments.

4. Geography/topography

Consideration of geography or topography can provide additional information relevant to defining nonattainment area boundaries. Analyses should examine the physical features of the land that might define the airshed. Mountains or other physical features may influence the fate and transport of emissions as well as the formation and distribution of ozone concentrations. For example, valley-type topographical features can cause local stagnation episodes where vertical temperature inversions effectively “trap” air pollution. Under these conditions, emissions can accumulate leading to periods of elevated ozone concentrations. These inversions may be limited in extent and, therefore, the areas with inversions may need to be separated from areas at altitudes above the top of the inversion layer in locations where exceedances are associated with this type of event. Conversely, higher altitude mountaintop sites might experience a greater influence from long range transport and associated transport episodes in comparison to nearby areas at a lower altitude. Similarly, the absence of any such geographic or topographic features may also be a relevant consideration in selecting boundaries for a given violating area.

5. Jurisdictional boundaries

Once the geographic extent of the violating area and the nearby area contributing to violations is determined, existing jurisdictional boundaries may be considered for the purposes of providing a clearly defined legal boundary and carrying out the air quality planning and enforcement functions for nonattainment areas. Examples of jurisdictional boundaries include, but are not limited to: counties, air districts, areas of Indian country, metropolitan planning organizations, and existing nonattainment areas. If an existing jurisdictional boundary is used to help define the nonattainment area, it must encompass all of the area that has been identified as meeting the nonattainment definition. Where existing jurisdictional boundaries are not adequate to describe the nonattainment area, other clearly defined and permanent landmarks or geographic coordinates should be used.

Weight-of-Evidence Analysis Based on the Five Factors

In making designations recommendations for violating areas or contributing areas, and the nonattainment area boundaries for such areas, the EPA recommends that states and tribes consider the five recommended factors together and use a weight-of-evidence approach for this analysis. As explained above, the starting point for evaluating the factors is the air quality analysis. Of particular importance are the location(s) of the violating monitor(s) based on 2013-2015 data¹⁷ and the characteristics of those violations. Once the characteristics of the violations are established, one can begin to assess which nearby emissions sources and source regions may have contributed to those violations. This contribution evaluation should generally consider the location and magnitude of emissions, and the potential for these emissions to contribute to the ambient conditions at the violating monitors as informed by the meteorological and geographical/topographical analysis factors. The guiding principle for this evaluation should be to include, within the boundaries of the nonattainment area, nearby areas with emissions of ozone precursors (NO_x and VOC) that contribute to the violating monitor on days that exceed the NAAQS. The final factor, jurisdictional boundaries, should be considered to refine the nonattainment area boundary to ensure meaningful air quality planning and regulation during the NAAQS implementation phase. As in prior designations for ozone NAAQS, the EPA believes that it is appropriate to use already-established air planning boundaries where possible, to assure continued effective planning and implementation.

The EPA believes that the 5-factor analysis described here is generally comprehensive and intends to use the weight-of-evidence approach based on these five factors in establishing the nonattainment boundaries for the 2015 ozone NAAQS. As noted earlier, the EPA intends to provide an Ozone Designations Mapping Tool to assist air agencies in developing their area designation and nonattainment boundary recommendations and to provide the relevant data to facilitate the analyses. The EPA will make the Ozone Designations Mapping Tool available on the ozone designations website.

The EPA also recognizes the potential value of additional data or methodologies not already specified in this guidance that states or tribes may elect to submit to qualitatively describe or quantify the relative contributions from contributing areas to violating monitors. In some cases, these supplemental methodologies (e.g., source apportionment modeling) may be used to synthesize the various factors, such as air quality, emissions, and meteorological data into quantitative estimates of the contributions from specific areas.

Source Apportionment Modeling

Source apportionment modeling refers to an augmented instrumentation of traditional regional photochemical Eulerian models which allows the model to track the impacts of NO_x and VOC emissions from user-defined source regions on predicted ozone concentrations in a particular grid cell. Emissions are tracked with source apportionment through ozone formation, transport, and deposition processes in the host photochemical model.^{18,19} Source apportionment modeling combines into a single analysis

¹⁷ The EPA intends to consider 2014-2016 data as soon as these data are available.

¹⁸ Dunker, A. M., Yarwood, G., Ortman, J. P., and Wilson, G. M. Comparison of source apportionment and source sensitivity of ozone in a three-dimensional air quality model, *Environ. Sci. Technol.*, 36, 2953–2964, 2002.

¹⁹ Kwok, R.H.F, Baker, K.R., Napelenok S.L., Tonnesen, G.S. Photochemical grid model implementation and application of VOC, NO_x, and O₃ source apportionment, *Geoscientific Model Development*, 8(1), 99-114, 2015.

several of the factors that the EPA believes are important for determining nonattainment area boundaries: air quality data, emissions, meteorology, and geography/topography. Consequently, this modeling may help identify possible areas for inclusion in the nonattainment area because of their contribution to violations in nearby areas with violating monitors.

The EPA does not require states or tribes to conduct source apportionment modeling as part of the initial area designations process for the 2015 ozone NAAQS. However, some states used source apportionment modeling in their boundary determinations for the 2008 ozone NAAQS. The EPA is not producing source apportionment modeling assessments for any areas as part of the initial area designations process for the 2015 NAAQS. Like other aspects of the factor analyses, source apportionment modeling produces information that can help to determine potential boundaries for the area that should be designated nonattainment. Where provided by states or tribes, source apportionment results will be considered as just one part of an overall assessment of the potential nonattainment area boundaries. The EPA recognizes that while there are uncertainties associated with interpreting source apportionment outputs, it can be a useful technique for comparing the relative contribution of individual county emissions of ozone precursor emissions in a more sophisticated manner.

If a state chooses to conduct source apportionment modeling, the EPA recommends that model episodes are of sufficient duration to capture the entire range of meteorological and emissions conditions that can lead to ozone violations in a particular area. Further, we recommend that states and tribes follow the relevant EPA guidance for photochemical modeling attainment demonstrations²⁰ when establishing their source apportionment modeling platform. In establishing the parameters of a source apportionment modeling exercise, the violating monitor(s) would typically comprise the receptor(s) in the analysis. When summarizing the outputs from the source apportionment modeling, it is suggested that the relative contributions from nearby source regions be compared against one another. It is expected that the focus of the source apportionment modeling would be identifying each source region's contribution to ozone levels near or exceeding the level of the ozone NAAQS. While the EPA does not believe it is appropriate to establish an *a priori* threshold contribution level, a relative comparison of the modeled contribution of each source region should reveal where there are potential contributing sources that should be included within the nonattainment area.

Rural Transport Areas

Section 182(h) of the CAA identifies a category of ozone nonattainment areas referred to as rural transport areas (RTAs). An RTA is treated as a Marginal area for purposes of ozone-related planning and control requirements, regardless of the area's classification. In order for an area to qualify as an RTA, the nonattainment area must meet two criteria. First, the nonattainment area cannot be adjacent to, or include any part of a metropolitan statistical area, as defined by the Office of Management and Budget. Second, the NO_x and VOC emissions from sources within the area cannot make a significant contribution to ozone concentrations in the area itself, or in other areas. The first criterion was discussed earlier in this guidance memo. This portion of the document provides guidance to states and tribes regarding the information that should be submitted to the EPA as part of a demonstration for the second criterion. The EPA believes that a multi-factor, weight-of-evidence approach is needed to demonstrate

²⁰ Draft Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, PM_{2.5}, and Regional Haze. December 2014. Located at: http://www3.epa.gov/ttn/scram/guidance/guide/Draft_O3-PM-RH_Modeling_Guidance-2014.pdf.

that emissions within a potential RTA do not contribute significantly to the local ozone nonattainment problem or to ozone nonattainment downwind. The factors are similar in nature to the ones described above to guide development of nonattainment designation boundaries: air quality data, emissions estimates, meteorological transport patterns, and geography/topography.

In most instances, the first step in demonstrating that the NO_x and VOC emissions in a potential RTA do not significantly contribute to ozone in the area itself is the development of a conceptual description of the nature of ozone exceedances in the area.²¹ This conceptual description should summarize the spatial and temporal patterns of ozone exceedances in the area and begin to identify hypotheses as to which processes and sources are likely most responsible for those high ozone values. To the extent that the conceptual description suggests that transport from upwind areas is largely responsible for the local ozone problem, the RTA demonstration should then further analyze existing ambient monitoring data, meteorological transport patterns, and local and regional emissions estimates to construct a weight-of-evidence argument that concludes the upwind contributions dominate any local contributions.

When compiling a weight-of-evidence based RTA demonstration, it may be valuable to consider an analysis of regional surface ozone monitoring data to see if there is a clear signal of an ozone plume being generated over an upwind area and being transported downwind as the day proceeds, reaching the potential RTA area after the time in which local photochemical production of ozone would have ceased. It also may be useful to look at any available ozone precursor data in or near the local area as a way to assess the chemical nature of a particular air mass. One indication of a photochemically-aged ozone plume that was likely formed from upwind emissions and transported away from its source origin, would be situations in which high ambient ozone and total reactive nitrogen (NO_y) values were observed in locations with relatively low ambient concentrations of NO_x. In other cases, there may be data available about the 3-dimensional chemical state of the atmosphere (e.g., from aircraft, satellites, or other relevant instrumentation) that can help characterize the role of transported ozone from upwind areas.

In terms of the meteorological factor, using HYSPLIT to estimate the back trajectories of air parcels on high ozone days can provide valuable information about the transport path and potential origin of the ozone pollution. We expect that for most areas that would qualify for treatment as an RTA, most, if not all, back trajectories on high ozone days would suggest long-path trajectories with source origins well away from the local area and with little potential for recirculation of the local emissions.

Finally, for the emissions factor, the relative magnitude of local emissions in any potential RTA is also a key consideration in determining if local sources contribute significantly to the ozone problem in the area. If the NO_x and VOC inventories for a particular area are appreciably less than those for other areas for which there is evidence demonstrating contribution to the ozone nonattainment problem (i.e., from the ambient and meteorological analyses), this provides support for concluding that the transport component is overwhelming any local ozone production. A simple approach to assessing the potential importance of local emissions is to compile county-level emissions inventory estimates for each county potentially along the trajectories that are expected to contribute to ozone in the potential RTA. If the emissions from upwind contributing counties are substantially larger than what is being emitted locally, then this suggests that the impact of the local emissions may not be significant. The EPA recommends that any comparative assessments of emissions be based on the most current available inventories.

²¹ Chapter 2.1 of EPA's Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, PM_{2.5}, and Regional Haze has a detailed description of how to develop a sound conceptual description of an air quality problem. http://www3.epa.gov/ttn/scram/guidance/guide/Draft_O3-PM-RH_Modeling_Guidance-2014.pdf.

It is also possible to assess the contribution of local NO_x and VOC emissions to the ozone in the area using photochemical air quality modeling. “Zero-out” modeling can provide an estimate of the total local impact by calculating the difference between the model estimates from a base case run and the estimates from a simulation in which the man-made emissions of NO_x and VOC are removed from the potential RTA. If the response of the model is small (i.e., even with zero local emissions, there is still a local ozone problem due to transport), it would support a determination that local emissions sources make a small contribution to ozone concentrations in the area. Additionally, source apportionment modeling can be used to estimate the contributions of user-defined source regions (or source categories) to total modeled ozone in an area. These types of modeling analyses can be resource-intensive and the EPA does not expect areas to rely on these models unless they have already been completed for other purposes. In some cases, there may be existing regional or national modeling simulations that can be leveraged to support an RTA demonstration. States and tribes are encouraged to consult with their EPA regional office on potentially available information.

The analyses described above focus on showing that local emissions do not significantly impact high ozone in the local area. Similar analyses would be appropriate to demonstrate that local emissions do not significantly impact ozone concentrations in other areas. It is unrealistic to expect that a state or tribe could analyze impacts on every possible downwind area. Instead, we recommend that the state or tribe consider the effects of local emissions on the nearest potential nonattainment areas, in a qualitative sense using some of the data analyses described above.

In general, the EPA believes the geographical restrictions of section 182(h)(1) will limit the number of areas eligible for treatment as an RTA. States or tribes requesting that the EPA treat an ozone nonattainment area as an RTA are encouraged to conduct the technical analyses discussed above as part of a multi-factor, weight-of-evidence demonstration. Documentation that describes each analysis performed and the aggregate determination that emissions in the candidate area do not make a significant contribution to ozone concentrations in that area or in other downwind (current or potential) nonattainment areas should be submitted to the appropriate EPA regional office. Any state or tribe seeking an RTA determination for an area is encouraged to work closely with the appropriate EPA regional office to coordinate the analytical plan for such a demonstration.

Attachment 2

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 81**

[EPA-HQ-OAR-2017-0548; FRL-9970-77-OAR]

RIN 2060-AT33

Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards (NAAQS)**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This rule establishes initial air quality designations for most areas in the United States, including most areas of Indian country, for the 2015 primary and secondary national ambient air quality standards (NAAQS) for ozone. In this action, the Environmental Protection Agency (EPA) is designating 2,646 counties, including Indian Country located in those counties, two separate areas of Indian Country, and five territories as Attainment/Unclassifiable and three counties as Unclassifiable.

DATES: This final rule is effective on January 16, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2017-0548. All documents in the docket are listed in the index at <http://www.regulations.gov>. 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 the docket or in hard copy at the Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. 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 Office of Air and Radiation Docket and Information Center is (202) 566-1742.

In addition, the EPA has established a Web site for this rulemaking at: <https://www.epa.gov/ozone-designations>. The Web site includes the EPA's final state and tribal designations, as well as state and tribal initial recommendation letters.

FOR FURTHER INFORMATION CONTACT: For general questions concerning this

action, please contact Denise Scott, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Planning Division, C539-04, Research Triangle Park, North Carolina 27711, telephone: (919) 541-4280, email: at scott.denise@epa.gov.

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SUPPLEMENTARY INFORMATION:**I. Background**

On October 1, 2015, the EPA revised both the primary and secondary NAAQS for ozone to a level of 0.070 parts per million (ppm) (annual fourth-highest daily maximum 8-hour average concentration, averaged over 3 years).¹ The revised 2015 ozone NAAQS provide greater protection of public health and the environment than the previous 2008 ozone NAAQS. Although the 2015 ozone NAAQS retain the same general form and averaging time as the 0.75 ppm NAAQS set in 2008, the level is more protective.

II. Purpose of This Action

The purpose of this action is to announce and promulgate initial area designations for most counties² in the country and most areas of Indian country with respect to the 2015 primary and secondary NAAQS for ozone, in accordance with the requirements of CAA section 107(d). The EPA is designating these counties as either Attainment/Unclassifiable or Unclassifiable. For other areas not addressed in this final rule, the EPA is

¹ See 80 FR 65296; October 26, 2015, for a detailed explanation of the calculation of the 3-year 8-hour average and 40 CFR part 50, appendix U.

² Any reference to "counties" in this action also includes non-county administrative or statistical areas that are comparable to counties. Louisiana parishes; the organized boroughs of Alaska; the District of Columbia; and the independent cities of the states of Virginia, Maryland, Missouri, and Nevada are equivalent to counties for administrative purposes. Alaska's Unorganized Borough is divided into 10 census areas that are statistically equivalent to counties. As of 2017, there are currently 3,142 counties and county-equivalents in the United States.

not extending the time provided under section 107(d)(1)(B) of the Clean Air Act but is not yet prepared to issue designations. The agency intends to address these areas in a separate future action.

In this action, the EPA is designating as Attainment/Unclassifiable 2,646 counties for which the states recommended a designation of Attainment or Attainment/Unclassifiable. These are counties with one or more monitors attaining the 2015 ozone NAAQS or counties for which the EPA does not have reason to believe are violating the 2015 ozone NAAQS or are contributing to a violation of the 2015 ozone NAAQS in another county.

In addition, the state of Washington recommended a designation of Unclassifiable for three counties—Benton, Franklin, and Walla Walla. Benton County and Franklin County are part of the Kennewick Richland, Washington, CBSA.³ Walla Walla County is outside of the Kennewick-Richland, Washington, CBSA, but adjacent to Benton County, and the state of Washington recommended it to be included in the Unclassifiable area. A monitor was installed in 2015 in Benton County, Washington. Three consecutive years of certified ozone monitoring data to determine the counties' attainment status is not currently available and would not be available if the EPA were to extend the deadline for designating this area until October 2018. Thus, EPA is designating this area as Unclassifiable, consistent with the state's recommendation.⁴

Consistent with the EPA's "Policy for Establishing Separate Air Quality Designations for Areas of Indian Country" (December 20, 2011), the EPA is designating two areas of Indian country (Fond du Lac Band of Lake Superior Chippewa Indians and Forest County Potawatomi Community) as separate Attainment/Unclassifiable areas.⁵ Both the Fond du Lac Band of Lake Superior Chippewa Indians and the Forest County Potawatomi submitted attainment recommendations

³ See "Washington State Designation Recommendations for the 2015 National Ambient Air Quality Standards for Ozone," letter from Maria D. Bellon, Director, Department of Ecology, State of Washington, to Dennis McLerran, Regional Administrator, Region 10, dated September 30, 2016.

⁴ See "Washington Area Designation for the 2015 Ozone National Ambient Air Quality Standards Technical Support Document, dated September 29, 2017.

⁵ Memorandum from Stephen D. Page, Director, Office of Air Quality Planning and Standards, to Regional Air Directors, Regions I–X, dated December 20, 2011, titled, "Policy for Establishing Separate Air Quality Designations for Areas of Indian Country."

based on air quality data from ozone monitors located on their respective tribal lands.

III. Public Participation in the Designation Process

Section 107(d)(2)(B) of the CAA provides that initial area designations under CAA section 107(d)(1) are not subject to the notice-and-comment rulemaking procedures of the Administrative Procedure Act (APA), but that “nothing herein shall be construed as precluding such public notice and comment whenever possible.” The EPA is promulgating these designations for 2,649 counties including Indian Country located in those counties, two separate areas of Indian Country, and five territories without notice-and-comment, because we believe that the designations pursuant to this final action are noncontroversial and the designations are consistent with the recommendations of the states and tribes in which these counties and tribal lands are located. Any party that is concerned about one or more of the area designations finalized in this action may file a petition for reconsideration with the Administrator.

IV. What is ozone and how is it formed?

Ground-level ozone is a gas that is formed by the reaction of volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) in the atmosphere in the presence of sunlight. These precursor emissions are emitted by many types of pollution sources, including power plants and industrial emissions sources, on-road and off-road motor vehicles and engines, and smaller sources, collectively referred to as area sources. Ozone is predominately a summertime air pollutant. However, a few areas in the Western U.S. have experienced high levels of ozone in the wintertime. Ozone and ozone precursors can be transported to an area from sources in nearby areas or from sources located hundreds of miles away.

V. What are the 2015 ozone NAAQS and the health and welfare concerns they address?

As discussed in Section I of this preamble, on October 1, 2015, the EPA revised both the primary and secondary NAAQS for ozone to a level of 0.070 ppm (annual fourth-highest daily maximum 8-hour average concentration, averaged over 3 years) to provide increased protection of public health and the environment.

The EPA lowered the primary 8-hour ozone standard from 0.075 ppm to 0.070 ppm to protect against health effects

associated with ozone exposure, including a number of harmful effects on the respiratory system, including difficulty breathing, inflammation of the airways, and aggravation of lung diseases such as asthma and chronic obstructive pulmonary disease, and increased premature death from heart or lung disease. The EPA also revised the level of the secondary 8-hour ozone standard from 0.075 ppm to 0.070 ppm to protect against welfare effects, including impacts on sensitive vegetation and forested ecosystems.

VI. CAA Requirements

When the EPA promulgates 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. Section 107(d)(1)(A)(i) of the CAA defines a Nonattainment area as, “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.” If an area meets either prong of this definition, then the EPA is obligated to designate the area as “Nonattainment.” CAA section 107(d)(1)(A)(ii) defines an Attainment area as any area that does not meet the definition of Nonattainment and that meets the NAAQS. CAA section 107(d)(1)(A)(iii) provides that any area that the EPA cannot designate on the basis of available information as meeting or not meeting the standards should be designated as “Unclassifiable.” Historically for ozone, the EPA designates most areas that do not meet the definition of Nonattainment as “Unclassifiable/Attainment.” In a few instances, based on circumstances where some monitoring data are available but is not sufficient for a determination that an area is or is not attaining the NAAQS, the EPA has designated an area as “Unclassifiable.”

Section 107(d)(1)(B) of the CAA requires the EPA to issue initial area designations within 2 years of promulgating a new or revised NAAQS. However, if the Administrator has insufficient information to make these designations within that time frame, the EPA has the authority to extend the deadline for designation decisions by up to 1 additional year.

By not later than 1 year after the promulgation of a new or revised NAAQS, each state governor is required by the CAA 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 designation recommendations that are inconsistent with the statutory definitions of nonattainment, attainment and unclassifiable, including modification of recommended boundaries for nonattainment areas that are not supported by the facts or analysis. If the EPA intends to modify a state’s recommendation, section 107(d)(1)(B) of the CAA requires the EPA to notify the state of any such intended modifications not less than 120 days prior to the EPA’s promulgation of the final designation. These notifications are commonly known as the “120-day letters.” If the state does not agree with the EPA’s intended modification, the 120-day period provides an opportunity for the state to demonstrate to the EPA why it believes any modification proposed by the EPA is inappropriate. If a state fails to provide any recommendation for an area, in whole or in part, the EPA must promulgate a designation that the Administrator deems appropriate.

The terms “contributes to” and “nearby” in the definition of a nonattainment area are not defined in the statute and the EPA has discretion to interpret these ambiguous terms, based on 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. The EPA does not interpret the statute to require the agency to establish bright line tests or thresholds for what constitutes “contribution” or “nearby” for purposes of designations.⁶

Section 301(d) of the CAA authorizes the EPA to approve eligible Indian tribes to implement provisions of the CAA on Indian reservations and other areas within the tribes’ jurisdiction. The Tribal Authority Rule (TAR) (40 CFR part 49), which implements section 301(d) of the CAA, sets forth the criteria and process for tribes to apply to the EPA for eligibility to administer CAA programs. 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

⁶ This view was confirmed in *Catawba County v. EPA*, 571 F.3d 20 (D.C. Cir. 2009).

submit designation recommendations to the EPA.

VII. Environmental Justice Concerns

When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the United States as either nonattainment, attainment, or unclassifiable. This final action addresses designation determinations for 2,649 counties including Indian Country located in those counties, two separate areas of Indian country, and five territories for the 2015 ozone NAAQS. Area designations address environmental justice concerns by ensuring that the public is properly informed about the air quality in an area. In locations where air quality does not meet the NAAQS, the CAA requires relevant state authorities to initiate appropriate air quality management actions to ensure that all those residing, working, attending school, or otherwise present in those areas are protected, regardless of minority and economic status.

VIII. Statutory and Executive Order Reviews

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

This action is exempt from review by the Office of Management and Budget because it responds to the CAA requirement to promulgate air quality designations after promulgation of a new or revised NAAQS.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because actions such as air quality designations after promulgating a new revised NAAQS are exempt under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action fulfills the non-discretionary duty for the EPA to promulgate air quality designations after promulgation of a new or revised NAAQS and does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

This designation action under CAA section 107(d) is not subject to the RFA. The RFA applies only to rules subject to notice-and-comment rulemaking requirements under the APA, 5 U.S.C. 553, or any other statute. Section 107(d)(2)(B) of the CAA explicitly provides that designations are exempt

from the notice-and-comment provisions of the APA. In addition, designations under CAA section 107(d) are not among the list of actions that are subject to the notice-and-comment rulemaking requirements of CAA section 307(d).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538 and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This 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. The division of responsibility between the federal government and the states for purposes of implementing the NAAQS is established under the CAA.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Government

This action does not have tribal implications. It will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. The CAA provides for states and eligible tribes to develop plans to regulate emissions of air pollutants within their areas, as necessary, based on the designations. The TAR provides tribes the opportunity to apply for eligibility to develop and implement CAA programs, such as programs to attain and maintain the ozone NAAQS, but it leaves to the discretion of the tribe the decision of whether to apply to develop these programs and which programs, or appropriate elements of a program, the tribe will seek to adopt. This rule does not have a substantial direct effect on one or more Indian tribes.

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

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not

subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The documentation for this determination is contained in Section VII of this preamble, “Environmental Justice Concerns.”

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the U.S. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

M. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions for 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 for: (i) “Any 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 rule designates areas for the 2015 ozone NAAQS is “nationally applicable” within the meaning of CAA section 307(b)(1). This rule establishes designations for areas across the U.S. for the 2015 ozone NAAQS. At the core of this rulemaking is the EPA’s interpretation of the designation provisions in 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 CAA 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 rulemaking extends to numerous judicial circuits since the designations apply to areas across the country. In these circumstances, CAA section

307(b)(1) and its legislative history calls for the Administrator to find the rule to be of “nationwide scope or effect” and for venue to be in the District of Columbia 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: November 6, 2017.

E. Scott Pruitt,
Administrator.

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

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

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

Subpart C—Section 107 Attainment Status Designations

■ 2. Section 81.301 is amended by adding a table titled “Alabama—2015 8-Hour Ozone NAAQS (Primary and Secondary)” following the table titled “Alabama—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.301 Alabama.

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ALABAMA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Autauga County	Attainment/Unclassifiable.		
Baldwin County	Attainment/Unclassifiable.		
Barbour County	Attainment/Unclassifiable.		
Bibb County	Attainment/Unclassifiable.		
Blount County	Attainment/Unclassifiable.		
Bullock County	Attainment/Unclassifiable.		
Butler County	Attainment/Unclassifiable.		
Calhoun County	Attainment/Unclassifiable.		
Chambers County	Attainment/Unclassifiable.		
Cherokee County	Attainment/Unclassifiable.		
Chilton County	Attainment/Unclassifiable.		
Choctaw County	Attainment/Unclassifiable.		
Clarke County	Attainment/Unclassifiable.		
Clay County	Attainment/Unclassifiable.		
Cleburne County	Attainment/Unclassifiable.		
Coffee County	Attainment/Unclassifiable.		
Colbert County	Attainment/Unclassifiable.		
Conecuh County	Attainment/Unclassifiable.		
Coosa County	Attainment/Unclassifiable.		
Covington County	Attainment/Unclassifiable.		
Crenshaw County	Attainment/Unclassifiable.		
Cullman County	Attainment/Unclassifiable.		
Dale County	Attainment/Unclassifiable.		
Dallas County	Attainment/Unclassifiable.		
DeKalb County	Attainment/Unclassifiable.		
Elmore County	Attainment/Unclassifiable.		
Escambia County	Attainment/Unclassifiable.		
Etowah County	Attainment/Unclassifiable.		
Fayette County	Attainment/Unclassifiable.		
Franklin County	Attainment/Unclassifiable.		
Geneva County	Attainment/Unclassifiable.		
Greene County	Attainment/Unclassifiable.		
Hale County	Attainment/Unclassifiable.		
Henry County	Attainment/Unclassifiable.		
Houston County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Jefferson County	Attainment/Unclassifiable.		
Lamar County	Attainment/Unclassifiable.		
Lauderdale County	Attainment/Unclassifiable.		
Lawrence County	Attainment/Unclassifiable.		
Lee County	Attainment/Unclassifiable.		
Limestone County	Attainment/Unclassifiable.		
Lowndes County	Attainment/Unclassifiable.		

ALABAMA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Macon County	Attainment/Unclassifiable.		
Madison County	Attainment/Unclassifiable.		
Marengo County	Attainment/Unclassifiable.		
Marion County	Attainment/Unclassifiable.		
Marshall County	Attainment/Unclassifiable.		
Mobile County	Attainment/Unclassifiable.		
Monroe County	Attainment/Unclassifiable.		
Montgomery County	Attainment/Unclassifiable.		
Morgan County	Attainment/Unclassifiable.		
Perry County	Attainment/Unclassifiable.		
Pickens County	Attainment/Unclassifiable.		
Pike County	Attainment/Unclassifiable.		
Randolph County	Attainment/Unclassifiable.		
Russell County	Attainment/Unclassifiable.		
Shelby County	Attainment/Unclassifiable.		
St. Clair County	Attainment/Unclassifiable.		
Sumter County	Attainment/Unclassifiable.		
Talladega County	Attainment/Unclassifiable.		
Tallapoosa County	Attainment/Unclassifiable.		
Tuscaloosa County	Attainment/Unclassifiable.		
Walker County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		
Wilcox County	Attainment/Unclassifiable.		
Winston County	Attainment/Unclassifiable.		

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² This date is January 16, 2018, unless otherwise noted.

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 ■ 3. Section 81.302 is amended by adding a table titled “Alaska—2015 8-Hour Ozone NAAQS (Primary and Secondary)” following the table titled “Alaska—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows: § 81.302 Alaska.
 * * * * *

ALASKA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Aleutians East Borough	Attainment/Unclassifiable.		
Aleutians West Census Area	Attainment/Unclassifiable.		
Bethel Census Area	Attainment/Unclassifiable.		
Bristol Bay Borough	Attainment/Unclassifiable.		
Denali Borough	Attainment/Unclassifiable.		
Dillingham Census Area	Attainment/Unclassifiable.		
Fairbanks North Star Borough	Attainment/Unclassifiable.		
Haines Borough	Attainment/Unclassifiable.		
Hoonah-Angoon Census Area	Attainment/Unclassifiable.		
Juneau City and Borough	Attainment/Unclassifiable.		
Kenai Peninsula Borough	Attainment/Unclassifiable.		
Ketchikan Gateway Borough	Attainment/Unclassifiable.		
Kodiak Island Borough	Attainment/Unclassifiable.		
Kusilvak Census Area	Attainment/Unclassifiable.		
Lake and Peninsula Borough	Attainment/Unclassifiable.		
Nome Census Area	Attainment/Unclassifiable.		
North Slope Borough	Attainment/Unclassifiable.		
Northwest Arctic Borough	Attainment/Unclassifiable.		
Petersburg Borough	Attainment/Unclassifiable.		
Prince of Wales-Hyder Census Area	Attainment/Unclassifiable.		
Sitka City and Borough	Attainment/Unclassifiable.		
Skagway Municipality	Attainment/Unclassifiable.		
Southeast Fairbanks Census Area	Attainment/Unclassifiable.		
Valdez-Cordova Census Area	Attainment/Unclassifiable.		
Wrangell City and Borough	Attainment/Unclassifiable.		
Yakutat City and Borough	Attainment/Unclassifiable.		

ALASKA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Yukon-Koyukuk Census Area	Attainment/Unclassifiable.		

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² This date is January 16, 2018, unless otherwise noted.

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 ■ 4. Section 81.303 is amended by adding a table titled “Arizona—2015 8-Hour Ozone NAAQS (Primary and Secondary)” following the table titled § 81.303 Arizona.
 “Arizona—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows: * * * * *

ARIZONA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Apache County	Attainment/Unclassifiable.		
Cochise County	Attainment/Unclassifiable.		
Greenlee County	Attainment/Unclassifiable.		
Santa Cruz County	Attainment/Unclassifiable.		

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² This date is January 16, 2018, unless otherwise noted.

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 ■ 5. Section 81.304 is amended by adding a table titled “Arkansas—2015 8-Hour Ozone NAAQS (Primary and Secondary)” following the table titled § 81.304 Arkansas.
 “Arkansas—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows: * * * * *

ARKANSAS—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Arkansas County	Attainment/Unclassifiable.		
Ashley County	Attainment/Unclassifiable.		
Baxter County	Attainment/Unclassifiable.		
Benton County	Attainment/Unclassifiable.		
Boone County	Attainment/Unclassifiable.		
Bradley County	Attainment/Unclassifiable.		
Calhoun County	Attainment/Unclassifiable.		
Carroll County	Attainment/Unclassifiable.		
Chicot County	Attainment/Unclassifiable.		
Clark County	Attainment/Unclassifiable.		
Clay County	Attainment/Unclassifiable.		
Cleburne County	Attainment/Unclassifiable.		
Cleveland County	Attainment/Unclassifiable.		
Columbia County	Attainment/Unclassifiable.		
Conway County	Attainment/Unclassifiable.		
Craighead County	Attainment/Unclassifiable.		
Crawford County	Attainment/Unclassifiable.		
Crittenden County	Attainment/Unclassifiable.		
Cross County	Attainment/Unclassifiable.		
Dallas County	Attainment/Unclassifiable.		
Desha County	Attainment/Unclassifiable.		
Drew County	Attainment/Unclassifiable.		
Faulkner County	Attainment/Unclassifiable.		
Franklin County	Attainment/Unclassifiable.		
Fulton County	Attainment/Unclassifiable.		
Garland County	Attainment/Unclassifiable.		

ARKANSAS—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Grant County	Attainment/Unclassifiable.		
Greene County	Attainment/Unclassifiable.		
Hempstead County	Attainment/Unclassifiable.		
Hot Spring County	Attainment/Unclassifiable.		
Howard County	Attainment/Unclassifiable.		
Independence County	Attainment/Unclassifiable.		
Izard County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Jefferson County	Attainment/Unclassifiable.		
Johnson County	Attainment/Unclassifiable.		
Lafayette County	Attainment/Unclassifiable.		
Lawrence County	Attainment/Unclassifiable.		
Lee County	Attainment/Unclassifiable.		
Lincoln County	Attainment/Unclassifiable.		
Little River County	Attainment/Unclassifiable.		
Logan County	Attainment/Unclassifiable.		
Lonoke County	Attainment/Unclassifiable.		
Madison County	Attainment/Unclassifiable.		
Marion County	Attainment/Unclassifiable.		
Miller County	Attainment/Unclassifiable.		
Mississippi County	Attainment/Unclassifiable.		
Monroe County	Attainment/Unclassifiable.		
Montgomery County	Attainment/Unclassifiable.		
Nevada County	Attainment/Unclassifiable.		
Newton County	Attainment/Unclassifiable.		
Ouachita County	Attainment/Unclassifiable.		
Perry County	Attainment/Unclassifiable.		
Phillips County	Attainment/Unclassifiable.		
Pike County	Attainment/Unclassifiable.		
Poinsett County	Attainment/Unclassifiable.		
Polk County	Attainment/Unclassifiable.		
Pope County	Attainment/Unclassifiable.		
Prairie County	Attainment/Unclassifiable.		
Pulaski County	Attainment/Unclassifiable.		
Randolph County	Attainment/Unclassifiable.		
St. Francis County	Attainment/Unclassifiable.		
Saline County	Attainment/Unclassifiable.		
Scott County	Attainment/Unclassifiable.		
Searcy County	Attainment/Unclassifiable.		
Sebastian County	Attainment/Unclassifiable.		
Sevier County	Attainment/Unclassifiable.		
Sharp County	Attainment/Unclassifiable.		
Stone County	Attainment/Unclassifiable.		
Union County	Attainment/Unclassifiable.		
Van Buren County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		
White County	Attainment/Unclassifiable.		
Woodruff County	Attainment/Unclassifiable.		
Yell County	Attainment/Unclassifiable.		

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² This date is January 16, 2018, unless otherwise noted.

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 ■ 6. Section 81.305 is amended by adding a table titled “California—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “California—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Del Norte County	Attainment/Unclassifiable.		
Humboldt County	Attainment/Unclassifiable.		
Lake County	Attainment/Unclassifiable.		
Lassen County	Attainment/Unclassifiable.		
Modoc County	Attainment/Unclassifiable.		
Siskiyou County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

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 ■ 7. Section 81.306 is amended by adding a table titled “Colorado—2015 8-Hour Ozone NAAQS (Primary and Secondary)” following the table titled § 81.306 Colorado. “Colorado—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:
 * * * * *

COLORADO—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Alamosa County	Attainment/Unclassifiable.		
Archuleta County	Attainment/Unclassifiable.		
Baca County	Attainment/Unclassifiable.		
Bent County	Attainment/Unclassifiable.		
Chaffee County	Attainment/Unclassifiable.		
Cheyenne County	Attainment/Unclassifiable.		
Conejos County	Attainment/Unclassifiable.		
Costilla County	Attainment/Unclassifiable.		
Crowley County	Attainment/Unclassifiable.		
Custer County	Attainment/Unclassifiable.		
Delta County	Attainment/Unclassifiable.		
Dolores County	Attainment/Unclassifiable.		
Eagle County	Attainment/Unclassifiable.		
Fremont County	Attainment/Unclassifiable.		
Gunnison County	Attainment/Unclassifiable.		
Hinsdale County	Attainment/Unclassifiable.		
Huerfano County	Attainment/Unclassifiable.		
Kiowa County	Attainment/Unclassifiable.		
Kit Carson County	Attainment/Unclassifiable.		
Lake County	Attainment/Unclassifiable.		
La Plata County	Attainment/Unclassifiable.		
Las Animas County	Attainment/Unclassifiable.		
Lincoln County	Attainment/Unclassifiable.		
Logan County	Attainment/Unclassifiable.		
Mesa County	Attainment/Unclassifiable.		
Mineral County	Attainment/Unclassifiable.		
Montezuma County	Attainment/Unclassifiable.		
Montrose County	Attainment/Unclassifiable.		
Morgan County	Attainment/Unclassifiable.		
Otero County	Attainment/Unclassifiable.		
Ouray County	Attainment/Unclassifiable.		
Phillips County	Attainment/Unclassifiable.		
Pitkin County	Attainment/Unclassifiable.		
Prowers County	Attainment/Unclassifiable.		
Pueblo County	Attainment/Unclassifiable.		
Rio Grande County	Attainment/Unclassifiable.		
Routt County	Attainment/Unclassifiable.		
Saguache County	Attainment/Unclassifiable.		
San Juan County	Attainment/Unclassifiable.		
San Miguel County	Attainment/Unclassifiable.		
Sedgwick County	Attainment/Unclassifiable.		
Summit County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		

COLORADO—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Yuma County	Attainment/Unclassifiable.		

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
² This date is January 16, 2018, unless otherwise noted.

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 ■ 8. Section 81.310 is amended by adding a table titled “Florida—2015 8-Hour Ozone NAAQS (Primary and Secondary)” following the table titled “Florida—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows: **§ 81.310 Florida.**
 * * * * *

FLORIDA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Alachua County	Attainment/Unclassifiable.		
Bay County	Attainment/Unclassifiable.		
Bradford County	Attainment/Unclassifiable.		
Brevard County	Attainment/Unclassifiable.		
Broward County	Attainment/Unclassifiable.		
Calhoun County	Attainment/Unclassifiable.		
Charlotte County	Attainment/Unclassifiable.		
Citrus County	Attainment/Unclassifiable.		
Collier County	Attainment/Unclassifiable.		
Columbia County	Attainment/Unclassifiable.		
DeSoto County	Attainment/Unclassifiable.		
Dixie County	Attainment/Unclassifiable.		
Escambia County	Attainment/Unclassifiable.		
Flagler County	Attainment/Unclassifiable.		
Franklin County	Attainment/Unclassifiable.		
Gadsden County	Attainment/Unclassifiable.		
Gilchrist County	Attainment/Unclassifiable.		
Glades County	Attainment/Unclassifiable.		
Gulf County	Attainment/Unclassifiable.		
Hamilton County	Attainment/Unclassifiable.		
Hardee County	Attainment/Unclassifiable.		
Hendry County	Attainment/Unclassifiable.		
Hernando County	Attainment/Unclassifiable.		
Highlands County	Attainment/Unclassifiable.		
Hillsborough County	Attainment/Unclassifiable.		
Holmes County	Attainment/Unclassifiable.		
Indian River County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Jefferson County	Attainment/Unclassifiable.		
Lafayette County	Attainment/Unclassifiable.		
Lake County	Attainment/Unclassifiable.		
Lee County	Attainment/Unclassifiable.		
Leon County	Attainment/Unclassifiable.		
Levy County	Attainment/Unclassifiable.		
Liberty County	Attainment/Unclassifiable.		
Madison County	Attainment/Unclassifiable.		
Manatee County	Attainment/Unclassifiable.		
Marion County	Attainment/Unclassifiable.		
Martin County	Attainment/Unclassifiable.		
Miami-Dade County	Attainment/Unclassifiable.		
Monroe County	Attainment/Unclassifiable.		
Okaloosa County	Attainment/Unclassifiable.		
Okeechobee County	Attainment/Unclassifiable.		
Orange County	Attainment/Unclassifiable.		
Osceola County	Attainment/Unclassifiable.		
Palm Beach County	Attainment/Unclassifiable.		
Pasco County	Attainment/Unclassifiable.		
Pinellas County	Attainment/Unclassifiable.		
Polk County	Attainment/Unclassifiable.		

FLORIDA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
St. Lucie County	Attainment/Unclassifiable.		
Santa Rosa County	Attainment/Unclassifiable.		
Sarasota County	Attainment/Unclassifiable.		
Seminole County	Attainment/Unclassifiable.		
Sumter County	Attainment/Unclassifiable.		
Suwannee County	Attainment/Unclassifiable.		
Taylor County	Attainment/Unclassifiable.		
Union County	Attainment/Unclassifiable.		
Volusia County	Attainment/Unclassifiable.		
Wakulla County	Attainment/Unclassifiable.		
Walton County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

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■ 9. Section 81.311 is amended by adding a table titled “Georgia—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Georgia—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.311 Georgia.

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GEORGIA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Appling County	Attainment/Unclassifiable.		
Atkinson County	Attainment/Unclassifiable.		
Bacon County	Attainment/Unclassifiable.		
Baker County	Attainment/Unclassifiable.		
Baldwin County	Attainment/Unclassifiable.		
Banks County	Attainment/Unclassifiable.		
Ben Hill County	Attainment/Unclassifiable.		
Berrien County	Attainment/Unclassifiable.		
Bibb County	Attainment/Unclassifiable.		
Bleckley County	Attainment/Unclassifiable.		
Brantley County	Attainment/Unclassifiable.		
Brooks County	Attainment/Unclassifiable.		
Bryan County	Attainment/Unclassifiable.		
Bulloch County	Attainment/Unclassifiable.		
Burke County	Attainment/Unclassifiable.		
Calhoun County	Attainment/Unclassifiable.		
Candler County	Attainment/Unclassifiable.		
Catoosa County	Attainment/Unclassifiable.		
Charlton County	Attainment/Unclassifiable.		
Chatham County	Attainment/Unclassifiable.		
Chattahoochee County	Attainment/Unclassifiable.		
Chattooga County	Attainment/Unclassifiable.		
Clay County	Attainment/Unclassifiable.		
Clinch County	Attainment/Unclassifiable.		
Coffee County	Attainment/Unclassifiable.		
Colquitt County	Attainment/Unclassifiable.		
Columbia County	Attainment/Unclassifiable.		
Cook County	Attainment/Unclassifiable.		
Crawford County	Attainment/Unclassifiable.		
Crisp County	Attainment/Unclassifiable.		
Dade County	Attainment/Unclassifiable.		
Decatur County	Attainment/Unclassifiable.		
Dodge County	Attainment/Unclassifiable.		
Dooly County	Attainment/Unclassifiable.		
Dougherty County	Attainment/Unclassifiable.		
Early County	Attainment/Unclassifiable.		
Echols County	Attainment/Unclassifiable.		
Effingham County	Attainment/Unclassifiable.		

GEORGIA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Elbert County	Attainment/Unclassifiable.		
Emanuel County	Attainment/Unclassifiable.		
Evans County	Attainment/Unclassifiable.		
Fannin County	Attainment/Unclassifiable.		
Floyd County	Attainment/Unclassifiable.		
Franklin County	Attainment/Unclassifiable.		
Gilmer County	Attainment/Unclassifiable.		
Glascock County	Attainment/Unclassifiable.		
Glynn County	Attainment/Unclassifiable.		
Grady County	Attainment/Unclassifiable.		
Greene County	Attainment/Unclassifiable.		
Habersham County	Attainment/Unclassifiable.		
Hancock County	Attainment/Unclassifiable.		
Harris County	Attainment/Unclassifiable.		
Hart County	Attainment/Unclassifiable.		
Houston County	Attainment/Unclassifiable.		
Irwin County	Attainment/Unclassifiable.		
Jeff Davis County	Attainment/Unclassifiable.		
Jefferson County	Attainment/Unclassifiable.		
Jenkins County	Attainment/Unclassifiable.		
Johnson County	Attainment/Unclassifiable.		
Jones County	Attainment/Unclassifiable.		
Lanier County	Attainment/Unclassifiable.		
Laurens County	Attainment/Unclassifiable.		
Lee County	Attainment/Unclassifiable.		
Liberty County	Attainment/Unclassifiable.		
Lincoln County	Attainment/Unclassifiable.		
Long County	Attainment/Unclassifiable.		
Lowndes County	Attainment/Unclassifiable.		
Lumpkin County	Attainment/Unclassifiable.		
McDuffie County	Attainment/Unclassifiable.		
McIntosh County	Attainment/Unclassifiable.		
Macon County	Attainment/Unclassifiable.		
Marion County	Attainment/Unclassifiable.		
Miller County	Attainment/Unclassifiable.		
Mitchell County	Attainment/Unclassifiable.		
Monroe County	Attainment/Unclassifiable.		
Montgomery County	Attainment/Unclassifiable.		
Murray County	Attainment/Unclassifiable.		
Muscogee County	Attainment/Unclassifiable.		
Peach County	Attainment/Unclassifiable.		
Pierce County	Attainment/Unclassifiable.		
Pulaski County	Attainment/Unclassifiable.		
Putnam County	Attainment/Unclassifiable.		
Quitman County	Attainment/Unclassifiable.		
Rabun County	Attainment/Unclassifiable.		
Randolph County	Attainment/Unclassifiable.		
Richmond County	Attainment/Unclassifiable.		
Schley County	Attainment/Unclassifiable.		
Screven County	Attainment/Unclassifiable.		
Seminole County	Attainment/Unclassifiable.		
Stephens County	Attainment/Unclassifiable.		
Stewart County	Attainment/Unclassifiable.		
Sumter County	Attainment/Unclassifiable.		
Talbot County	Attainment/Unclassifiable.		
Taliaferro County	Attainment/Unclassifiable.		
Tattall County	Attainment/Unclassifiable.		
Taylor County	Attainment/Unclassifiable.		
Telfair County	Attainment/Unclassifiable.		
Terrell County	Attainment/Unclassifiable.		
Thomas County	Attainment/Unclassifiable.		
Tift County	Attainment/Unclassifiable.		
Toombs County	Attainment/Unclassifiable.		
Towns County	Attainment/Unclassifiable.		
Treutlen County	Attainment/Unclassifiable.		
Turner County	Attainment/Unclassifiable.		
Twiggs County	Attainment/Unclassifiable.		
Union County	Attainment/Unclassifiable.		
Walker County	Attainment/Unclassifiable.		

GEORGIA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Ware County	Attainment/Unclassifiable.		
Warren County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		
Wayne County	Attainment/Unclassifiable.		
Webster County	Attainment/Unclassifiable.		
Wheeler County	Attainment/Unclassifiable.		
White County	Attainment/Unclassifiable.		
Whitfield County	Attainment/Unclassifiable.		
Wilcox County	Attainment/Unclassifiable.		
Wilkes County	Attainment/Unclassifiable.		
Wilkinson County	Attainment/Unclassifiable.		
Worth County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

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■ 10. Section 81.312 is amended by adding a table titled “Hawaii—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Hawaii—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.312 Hawaii.

* * * * *

HAWAII—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Hawaii County	Attainment/Unclassifiable.		
Honolulu County	Attainment/Unclassifiable.		
Kalawao County	Attainment/Unclassifiable.		
Kauai County	Attainment/Unclassifiable.		
Maui County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

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■ 11. Section 81.313 is amended by adding a table titled “Idaho—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Idaho—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.313 Idaho.

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IDAHO—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Statewide	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

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■ 12. Section 81.314 is amended by adding a table titled “Illinois—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Illinois—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.314 Illinois.

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ILLINOIS—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Adams County	Attainment/Unclassifiable.		
Alexander County	Attainment/Unclassifiable.		
Boone County	Attainment/Unclassifiable.		
Brown County	Attainment/Unclassifiable.		
Carroll County	Attainment/Unclassifiable.		
Cass County	Attainment/Unclassifiable.		
Champaign County	Attainment/Unclassifiable.		
Christian County	Attainment/Unclassifiable.		
Clark County	Attainment/Unclassifiable.		
Clay County	Attainment/Unclassifiable.		
Coles County	Attainment/Unclassifiable.		
Crawford County	Attainment/Unclassifiable.		
Cumberland County	Attainment/Unclassifiable.		
De Witt County	Attainment/Unclassifiable.		
Douglas County	Attainment/Unclassifiable.		
Edgar County	Attainment/Unclassifiable.		
Edwards County	Attainment/Unclassifiable.		
Effingham County	Attainment/Unclassifiable.		
Fayette County	Attainment/Unclassifiable.		
Ford County	Attainment/Unclassifiable.		
Franklin County	Attainment/Unclassifiable.		
Fulton County	Attainment/Unclassifiable.		
Gallatin County	Attainment/Unclassifiable.		
Greene County	Attainment/Unclassifiable.		
Hamilton County	Attainment/Unclassifiable.		
Hancock County	Attainment/Unclassifiable.		
Hardin County	Attainment/Unclassifiable.		
Henderson County	Attainment/Unclassifiable.		
Henry County	Attainment/Unclassifiable.		
Iroquois County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Jasper County	Attainment/Unclassifiable.		
Jefferson County	Attainment/Unclassifiable.		
Jo Daviess County	Attainment/Unclassifiable.		
Johnson County	Attainment/Unclassifiable.		
Knox County	Attainment/Unclassifiable.		
Lawrence County	Attainment/Unclassifiable.		
Lee County	Attainment/Unclassifiable.		
Livingston County	Attainment/Unclassifiable.		
Logan County	Attainment/Unclassifiable.		
McDonough County	Attainment/Unclassifiable.		
McLean County	Attainment/Unclassifiable.		
Macon County	Attainment/Unclassifiable.		
Marshall County	Attainment/Unclassifiable.		
Mason County	Attainment/Unclassifiable.		
Massac County	Attainment/Unclassifiable.		
Menard County	Attainment/Unclassifiable.		
Mercer County	Attainment/Unclassifiable.		
Montgomery County	Attainment/Unclassifiable.		
Morgan County	Attainment/Unclassifiable.		
Moultrie County	Attainment/Unclassifiable.		
Ogle County	Attainment/Unclassifiable.		
Peoria County	Attainment/Unclassifiable.		
Perry County	Attainment/Unclassifiable.		
Piatt County	Attainment/Unclassifiable.		
Pike County	Attainment/Unclassifiable.		
Pope County	Attainment/Unclassifiable.		
Pulaski County	Attainment/Unclassifiable.		
Randolph County	Attainment/Unclassifiable.		
Richland County	Attainment/Unclassifiable.		
Rock Island County	Attainment/Unclassifiable.		
Saline County	Attainment/Unclassifiable.		
Sangamon County	Attainment/Unclassifiable.		
Schuyler County	Attainment/Unclassifiable.		
Scott County	Attainment/Unclassifiable.		
Shelby County	Attainment/Unclassifiable.		
Stark County	Attainment/Unclassifiable.		
Stephenson County	Attainment/Unclassifiable.		
Tazewell County	Attainment/Unclassifiable.		

ILLINOIS—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Union County	Attainment/Unclassifiable.		
Vermilion County	Attainment/Unclassifiable.		
Wabash County	Attainment/Unclassifiable.		
Warren County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		
Wayne County	Attainment/Unclassifiable.		
White County	Attainment/Unclassifiable.		
Whiteside County	Attainment/Unclassifiable.		
Williamson County	Attainment/Unclassifiable.		
Winnebago County	Attainment/Unclassifiable.		
Woodford County	Attainment/Unclassifiable.		

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
² This date is January 16, 2018, unless otherwise noted.

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 ■ 13. Section 81.315 is amended by adding a table titled “Indiana—2015 8-Hour Ozone NAAQS (Primary and Secondary)” following the table titled § 81.315 Indiana.
 “Indiana—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows: * * * * *

INDIANA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Adams County	Attainment/Unclassifiable.		
Allen County	Attainment/Unclassifiable.		
Bartholomew County	Attainment/Unclassifiable.		
Benton County	Attainment/Unclassifiable.		
Blackford County	Attainment/Unclassifiable.		
Boone County	Attainment/Unclassifiable.		
Brown County	Attainment/Unclassifiable.		
Carroll County	Attainment/Unclassifiable.		
Cass County	Attainment/Unclassifiable.		
Clay County	Attainment/Unclassifiable.		
Clinton County	Attainment/Unclassifiable.		
Crawford County	Attainment/Unclassifiable.		
Daviess County	Attainment/Unclassifiable.		
Decatur County	Attainment/Unclassifiable.		
DeKalb County	Attainment/Unclassifiable.		
Delaware County	Attainment/Unclassifiable.		
Dubois County	Attainment/Unclassifiable.		
Fayette County	Attainment/Unclassifiable.		
Fountain County	Attainment/Unclassifiable.		
Fulton County	Attainment/Unclassifiable.		
Gibson County	Attainment/Unclassifiable.		
Grant County	Attainment/Unclassifiable.		
Greene County	Attainment/Unclassifiable.		
Hamilton County	Attainment/Unclassifiable.		
Hancock County	Attainment/Unclassifiable.		
Hendricks County	Attainment/Unclassifiable.		
Henry County	Attainment/Unclassifiable.		
Howard County	Attainment/Unclassifiable.		
Huntington County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Jay County	Attainment/Unclassifiable.		
Jennings County	Attainment/Unclassifiable.		
Johnson County	Attainment/Unclassifiable.		
Knox County	Attainment/Unclassifiable.		
Kosciusko County	Attainment/Unclassifiable.		
LaGrange County	Attainment/Unclassifiable.		
Lawrence County	Attainment/Unclassifiable.		
Madison County	Attainment/Unclassifiable.		
Marion County	Attainment/Unclassifiable.		

INDIANA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Martin County	Attainment/Unclassifiable.		
Miami County	Attainment/Unclassifiable.		
Monroe County	Attainment/Unclassifiable.		
Montgomery County	Attainment/Unclassifiable.		
Morgan County	Attainment/Unclassifiable.		
Noble County	Attainment/Unclassifiable.		
Orange County	Attainment/Unclassifiable.		
Owen County	Attainment/Unclassifiable.		
Parke County	Attainment/Unclassifiable.		
Perry County	Attainment/Unclassifiable.		
Pike County	Attainment/Unclassifiable.		
Posey County	Attainment/Unclassifiable.		
Pulaski County	Attainment/Unclassifiable.		
Putnam County	Attainment/Unclassifiable.		
Randolph County	Attainment/Unclassifiable.		
Ripley County	Attainment/Unclassifiable.		
Rush County	Attainment/Unclassifiable.		
Shelby County	Attainment/Unclassifiable.		
Spencer County	Attainment/Unclassifiable.		
Starke County	Attainment/Unclassifiable.		
Steuben County	Attainment/Unclassifiable.		
Sullivan County	Attainment/Unclassifiable.		
Switzerland County	Attainment/Unclassifiable.		
Tippecanoe County	Attainment/Unclassifiable.		
Tipton County	Attainment/Unclassifiable.		
Vanderburgh County	Attainment/Unclassifiable.		
Vermillion County	Attainment/Unclassifiable.		
Vigo County	Attainment/Unclassifiable.		
Wabash County	Attainment/Unclassifiable.		
Warren County	Attainment/Unclassifiable.		
Warrick County	Attainment/Unclassifiable.		
Wayne County	Attainment/Unclassifiable.		
Wells County	Attainment/Unclassifiable.		
White County	Attainment/Unclassifiable.		
Whitley County	Attainment/Unclassifiable.		

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
² This date is January 16, 2018, unless otherwise noted.

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 ■ 14. Section 81.316 is amended by adding a table titled “Iowa—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled **§ 81.316 Iowa.**
 “Iowa—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:
 * * * * *

IOWA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Statewide	Attainment/Unclassifiable.		
Adair County.				
Adams County.				
Allamakee County.				
Appanoose County.				
Audubon County.				
Benton County.				
Black Hawk County.				
Boone County.				
Bremer County.				
Buchanan County.				
Buena Vista County.				
Butler County.				
Calhoun County.				

IOWA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Carroll County.				
Cass County.				
Cedar County.				
Cerro Gordo County.				
Cherokee County.				
Chickasaw County.				
Clarke County.				
Clay County.				
Clayton County.				
Clinton County.				
Crawford County.				
Dallas County.				
Davis County.				
Decatur County.				
Delaware County.				
Des Moines County.				
Dickinson County.				
Dubuque County.				
Emmet County.				
Fayette County.				
Floyd County.				
Franklin County.				
Fremont County.				
Greene County.				
Grundy County.				
Guthrie County.				
Hamilton County.				
Hancock County.				
Hardin County.				
Harrison County.				
Henry County.				
Howard County.				
Humboldt County.				
Ida County.				
Iowa County.				
Jackson County.				
Jasper County.				
Jefferson County.				
Johnson County.				
Jones County.				
Keokuk County.				
Kossuth County.				
Lee County.				
Linn County.				
Louisa County.				
Lucas County.				
Lyon County.				
Madison County.				
Mahaska County.				
Marion County.				
Marshall County.				
Mills County.				
Mitchell County.				
Monona County.				
Monroe County.				
Montgomery County.				
Muscatine County.				
O'Brien County.				
Osceola County.				
Page County.				
Palo Alto County.				
Plymouth County.				
Pocahontas County.				
Polk County.				
Pottawattamie County.				
Poweshiek County.				
Ringgold County.				
Sac County.				
Scott County.				

IOWA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Shelby County. Sioux County. Story County. Tama County. Taylor County. Union County. Van Buren County. Wapello County. Warren County. Washington County. Wayne County. Webster County. Winnebago County. Winneshiek County. Woodbury County. Worth County. Wright County.				

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

² This date is January 16, 2018, unless otherwise noted.

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■ 15. Section 81.317 is amended by adding a table titled “Kansas—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Kansas—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.317 Kansas.

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KANSAS—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Statewide	Attainment/Unclassifiable.		
Allen County. Anderson County. Atchison County. Barber County. Barton County. Bourbon County. Brown County. Butler County. Chase County. Chautauqua County. Cherokee County. Cheyenne County. Clark County. Clay County. Cloud County. Coffey County. Comanche County. Cowley County. Crawford County. Decatur County. Dickinson County. Doniphan County. Douglas County. Edwards County. Elk County. Ellis County. Ellsworth County. Finney County. Ford County. Franklin County. Geary County. Gove County.				

KANSAS—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Graham County.				
Grant County.				
Gray County.				
Greeley County.				
Greenwood County.				
Hamilton County.				
Harper County.				
Harvey County.				
Haskell County.				
Hodgeman County.				
Jackson County.				
Jefferson County.				
Jewell County.				
Johnson County.				
Kearny County.				
Kingman County.				
Kiowa County.				
Labette County.				
Lane County.				
Leavenworth County.				
Lincoln County.				
Linn County.				
Logan County.				
Lyon County.				
McPherson County.				
Marion County.				
Marshall County.				
Meade County.				
Miami County.				
Mitchell County.				
Montgomery County.				
Morris County.				
Morton County.				
Nemaha County.				
Neosho County.				
Ness County.				
Norton County.				
Osage County.				
Osborne County.				
Ottawa County.				
Pawnee County.				
Phillips County.				
Pottawatomie County.				
Pratt County.				
Rawlins County.				
Reno County.				
Republic County.				
Rice County.				
Riley County.				
Rooks County.				
Rush County.				
Russell County.				
Saline County.				
Scott County.				
Sedgwick County.				
Seward County.				
Shawnee County.				
Sheridan County.				
Sherman County.				
Smith County.				
Stafford County.				
Stanton County.				
Stevens County.				
Sumner County.				
Thomas County.				
Trego County.				
Wabaunsee County.				
Wallace County.				
Washington County.				

KANSAS—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Wichita County. Wilson County. Woodson County. Wyandotte County.				

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

² This date is January 16, 2018, unless otherwise noted.

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 ■ 16. Section 81.318 is amended by adding a table titled “Kentucky—2015 8-Hour Ozone NAAQS (Primary and Secondary)” following the table titled “Kentucky—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:
 § 81.318 Kentucky.
 * * * * *

KENTUCKY—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Adair County		Attainment/Unclassifiable.		
Allen County		Attainment/Unclassifiable.		
Anderson County		Attainment/Unclassifiable.		
Ballard County		Attainment/Unclassifiable.		
Barren County		Attainment/Unclassifiable.		
Bath County		Attainment/Unclassifiable.		
Bell County		Attainment/Unclassifiable.		
Bourbon County		Attainment/Unclassifiable.		
Boyd County		Attainment/Unclassifiable.		
Boyle County		Attainment/Unclassifiable.		
Breathitt County		Attainment/Unclassifiable.		
Breckinridge County		Attainment/Unclassifiable.		
Butler County		Attainment/Unclassifiable.		
Caldwell County		Attainment/Unclassifiable.		
Calloway County		Attainment/Unclassifiable.		
Carlisle County		Attainment/Unclassifiable.		
Carroll County		Attainment/Unclassifiable.		
Carter County		Attainment/Unclassifiable.		
Casey County		Attainment/Unclassifiable.		
Christian County		Attainment/Unclassifiable.		
Clark County		Attainment/Unclassifiable.		
Clay County		Attainment/Unclassifiable.		
Clinton County		Attainment/Unclassifiable.		
Crittenden County		Attainment/Unclassifiable.		
Cumberland County		Attainment/Unclassifiable.		
Daviess County		Attainment/Unclassifiable.		
Edmonson County		Attainment/Unclassifiable.		
Elliott County		Attainment/Unclassifiable.		
Estill County		Attainment/Unclassifiable.		
Fayette County		Attainment/Unclassifiable.		
Fleming County		Attainment/Unclassifiable.		
Floyd County		Attainment/Unclassifiable.		
Franklin County		Attainment/Unclassifiable.		
Fulton County		Attainment/Unclassifiable.		
Garrard County		Attainment/Unclassifiable.		
Graves County		Attainment/Unclassifiable.		
Grayson County		Attainment/Unclassifiable.		
Green County		Attainment/Unclassifiable.		
Greenup County		Attainment/Unclassifiable.		
Hancock County		Attainment/Unclassifiable.		
Harlan County		Attainment/Unclassifiable.		
Harrison County		Attainment/Unclassifiable.		
Hart County		Attainment/Unclassifiable.		
Henderson County		Attainment/Unclassifiable.		
Hickman County		Attainment/Unclassifiable.		
Hopkins County		Attainment/Unclassifiable.		

KENTUCKY—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Jackson County	Attainment/Unclassifiable.		
Jessamine County	Attainment/Unclassifiable.		
Johnson County	Attainment/Unclassifiable.		
Knott County	Attainment/Unclassifiable.		
Knox County	Attainment/Unclassifiable.		
Laurel County	Attainment/Unclassifiable.		
Lawrence County	Attainment/Unclassifiable.		
Lee County	Attainment/Unclassifiable.		
Leslie County	Attainment/Unclassifiable.		
Letcher County	Attainment/Unclassifiable.		
Lewis County	Attainment/Unclassifiable.		
Lincoln County	Attainment/Unclassifiable.		
Livingston County	Attainment/Unclassifiable.		
Logan County	Attainment/Unclassifiable.		
Lyon County	Attainment/Unclassifiable.		
McCracken County	Attainment/Unclassifiable.		
McCreary County	Attainment/Unclassifiable.		
McLean County	Attainment/Unclassifiable.		
Madison County	Attainment/Unclassifiable.		
Magoffin County	Attainment/Unclassifiable.		
Marion County	Attainment/Unclassifiable.		
Marshall County	Attainment/Unclassifiable.		
Martin County	Attainment/Unclassifiable.		
Menifee County	Attainment/Unclassifiable.		
Mercer County	Attainment/Unclassifiable.		
Metcalfe County	Attainment/Unclassifiable.		
Monroe County	Attainment/Unclassifiable.		
Montgomery County	Attainment/Unclassifiable.		
Morgan County	Attainment/Unclassifiable.		
Muhlenberg County	Attainment/Unclassifiable.		
Nicholas County	Attainment/Unclassifiable.		
Ohio County	Attainment/Unclassifiable.		
Owen County	Attainment/Unclassifiable.		
Owsley County	Attainment/Unclassifiable.		
Perry County	Attainment/Unclassifiable.		
Pike County	Attainment/Unclassifiable.		
Powell County	Attainment/Unclassifiable.		
Pulaski County	Attainment/Unclassifiable.		
Robertson County	Attainment/Unclassifiable.		
Rockcastle County	Attainment/Unclassifiable.		
Rowan County	Attainment/Unclassifiable.		
Russell County	Attainment/Unclassifiable.		
Scott County	Attainment/Unclassifiable.		
Simpson County	Attainment/Unclassifiable.		
Taylor County	Attainment/Unclassifiable.		
Todd County	Attainment/Unclassifiable.		
Trigg County	Attainment/Unclassifiable.		
Union County	Attainment/Unclassifiable.		
Warren County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		
Wayne County	Attainment/Unclassifiable.		
Webster County	Attainment/Unclassifiable.		
Whitley County	Attainment/Unclassifiable.		
Wolfe County	Attainment/Unclassifiable.		
Woodford County	Attainment/Unclassifiable.		

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
² This date is January 16, 2018, unless otherwise noted.

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 ■ 17. Section 81.319 is amended by adding a table titled “Louisiana—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Louisiana—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.319 Louisiana.
 * * * * *

LOUISIANA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Acadia Parish	Attainment/Unclassifiable.		
Allen Parish	Attainment/Unclassifiable.		
Avoyelles Parish	Attainment/Unclassifiable.		
Beauregard Parish	Attainment/Unclassifiable.		
Bienville Parish	Attainment/Unclassifiable.		
Bossier Parish	Attainment/Unclassifiable.		
Caddo Parish	Attainment/Unclassifiable.		
Calcasieu Parish	Attainment/Unclassifiable.		
Caldwell Parish	Attainment/Unclassifiable.		
Cameron Parish	Attainment/Unclassifiable.		
Catahoula Parish	Attainment/Unclassifiable.		
Claiborne Parish	Attainment/Unclassifiable.		
Concordia Parish	Attainment/Unclassifiable.		
De Soto Parish	Attainment/Unclassifiable.		
East Carroll Parish	Attainment/Unclassifiable.		
Evangeline Parish	Attainment/Unclassifiable.		
Franklin Parish	Attainment/Unclassifiable.		
Grant Parish	Attainment/Unclassifiable.		
Iberia Parish	Attainment/Unclassifiable.		
Jackson Parish	Attainment/Unclassifiable.		
Jefferson Parish	Attainment/Unclassifiable.		
Jefferson Davis Parish	Attainment/Unclassifiable.		
Lafayette Parish	Attainment/Unclassifiable.		
Lafourche Parish	Attainment/Unclassifiable.		
LaSalle Parish	Attainment/Unclassifiable.		
Lincoln Parish	Attainment/Unclassifiable.		
Madison Parish	Attainment/Unclassifiable.		
Morehouse Parish	Attainment/Unclassifiable.		
Natchitoches Parish	Attainment/Unclassifiable.		
Orleans Parish	Attainment/Unclassifiable.		
Ouachita Parish	Attainment/Unclassifiable.		
Plaquemines Parish	Attainment/Unclassifiable.		
Rapides Parish	Attainment/Unclassifiable.		
Red River Parish	Attainment/Unclassifiable.		
Richland Parish	Attainment/Unclassifiable.		
Sabine Parish	Attainment/Unclassifiable.		
St. Bernard Parish	Attainment/Unclassifiable.		
St. Charles Parish	Attainment/Unclassifiable.		
St. John the Baptist Parish	Attainment/Unclassifiable.		
St. Landry Parish	Attainment/Unclassifiable.		
St. Martin Parish	Attainment/Unclassifiable.		
St. Mary Parish	Attainment/Unclassifiable.		
St. Tammany Parish	Attainment/Unclassifiable.		
Tangipahoa Parish	Attainment/Unclassifiable.		
Tensas Parish	Attainment/Unclassifiable.		
Terrebonne Parish	Attainment/Unclassifiable.		
Union Parish	Attainment/Unclassifiable.		
Vermilion Parish	Attainment/Unclassifiable.		
Vernon Parish	Attainment/Unclassifiable.		
Washington Parish	Attainment/Unclassifiable.		
Webster Parish	Attainment/Unclassifiable.		
West Carroll Parish	Attainment/Unclassifiable.		
Winn Parish	Attainment/Unclassifiable.		

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
² This date is January 16, 2018, unless otherwise noted.

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 ■ 18. Section 81.320 is amended by adding a table titled “Maine—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Maine—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.320 Maine.
 * * * * *

MAINE—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Statewide	Attainment/Unclassifiable.		
Androscoggin County.				
Aroostook County.				
Cumberland County.				
Franklin County.				
Hancock County.				
Kennebec County.				
Knox County.				
Lincoln County.				
Oxford County.				
Penobscot County.				
Piscataquis County.				
Sagadahoc County.				
Somerset County.				
Waldo County.				
Washington County.				
York County.				

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

² This date is January 16, 2018, unless otherwise noted.

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■ 19. Section 81.321 is amended by adding a table titled “Maryland—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Maryland—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.321 Maryland.

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MARYLAND—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Allegany County	Attainment/Unclassifiable.		
Caroline County	Attainment/Unclassifiable.		
Garrett County	Attainment/Unclassifiable.		
Somerset County	Attainment/Unclassifiable.		
Wicomico County	Attainment/Unclassifiable.		
Worcester County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

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■ 20. Section 81.322 is amended by adding a table titled “Massachusetts—2015 8-Hour Ozone NAAQS (Primary

and Secondary)” following the table titled “Massachusetts—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.322 Massachusetts.

* * * * *

MASSACHUSETTS—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Barnstable County	Attainment/Unclassifiable.		
Bristol County	Attainment/Unclassifiable.		
Dukes County	Attainment/Unclassifiable.		
Essex County	Attainment/Unclassifiable.		
Franklin County	Attainment/Unclassifiable.		
Hampshire County	Attainment/Unclassifiable.		
Middlesex County	Attainment/Unclassifiable.		

MASSACHUSETTS—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Nantucket County	Attainment/Unclassifiable.		
Norfolk County	Attainment/Unclassifiable.		
Plymouth County	Attainment/Unclassifiable.		
Suffolk County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

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■ 21. Section 81.323 is amended by adding a table titled “Michigan—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Michigan—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.323 Michigan.

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MICHIGAN—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Alcona County	Attainment/Unclassifiable.		
Alger County	Attainment/Unclassifiable.		
Alpena County	Attainment/Unclassifiable.		
Antrim County	Attainment/Unclassifiable.		
Arenac County	Attainment/Unclassifiable.		
Baraga County	Attainment/Unclassifiable.		
Bay County	Attainment/Unclassifiable.		
Benzie County	Attainment/Unclassifiable.		
Branch County	Attainment/Unclassifiable.		
Calhoun County	Attainment/Unclassifiable.		
Charlevoix County	Attainment/Unclassifiable.		
Cheboygan County	Attainment/Unclassifiable.		
Chippewa County	Attainment/Unclassifiable.		
Clare County	Attainment/Unclassifiable.		
Clinton County	Attainment/Unclassifiable.		
Crawford County	Attainment/Unclassifiable.		
Delta County	Attainment/Unclassifiable.		
Dickinson County	Attainment/Unclassifiable.		
Eaton County	Attainment/Unclassifiable.		
Emmet County	Attainment/Unclassifiable.		
Gladwin County	Attainment/Unclassifiable.		
Gogebic County	Attainment/Unclassifiable.		
Grand Traverse County	Attainment/Unclassifiable.		
Gratiot County	Attainment/Unclassifiable.		
Hillsdale County	Attainment/Unclassifiable.		
Houghton County	Attainment/Unclassifiable.		
Huron County	Attainment/Unclassifiable.		
Ingham County	Attainment/Unclassifiable.		
Iosco County	Attainment/Unclassifiable.		
Iron County	Attainment/Unclassifiable.		
Isabella County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Kalkaska County	Attainment/Unclassifiable.		
Keweenaw County	Attainment/Unclassifiable.		
Lake County	Attainment/Unclassifiable.		
Leelanau County	Attainment/Unclassifiable.		
Luce County	Attainment/Unclassifiable.		
Mackinac County	Attainment/Unclassifiable.		
Manistee County	Attainment/Unclassifiable.		
Marquette County	Attainment/Unclassifiable.		
Mason County	Attainment/Unclassifiable.		
Menominee County	Attainment/Unclassifiable.		
Midland County	Attainment/Unclassifiable.		
Missaukee County	Attainment/Unclassifiable.		
Montmorency County	Attainment/Unclassifiable.		
Ogemaw County	Attainment/Unclassifiable.		

MICHIGAN—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Ontonagon County	Attainment/Unclassifiable.		
Osceola County	Attainment/Unclassifiable.		
Oscoda County	Attainment/Unclassifiable.		
Otsego County	Attainment/Unclassifiable.		
Presque Isle County	Attainment/Unclassifiable.		
Roscommon County	Attainment/Unclassifiable.		
Saginaw County	Attainment/Unclassifiable.		
St. Joseph County	Attainment/Unclassifiable.		
Schoolcraft County	Attainment/Unclassifiable.		
Shiawassee County	Attainment/Unclassifiable.		
Tuscola County	Attainment/Unclassifiable.		
Wexford County	Attainment/Unclassifiable.		

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² This date is January 16, 2018, unless otherwise noted.

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Secondary)” following the table titled **§ 81.324 Minnesota.**
 “Minnesota—2008 8-Hour Ozone * * * * *
 NAAQS (Primary and secondary)” to
 read as follows:

■ 22. Section 81.324 is amended by adding a table titled “Minnesota—2015 8-Hour Ozone NAAQS (Primary and

MINNESOTA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Aitkin County	Attainment/Unclassifiable.		
Anoka County	Attainment/Unclassifiable.		
Becker County	Attainment/Unclassifiable.		
Beltrami County	Attainment/Unclassifiable.		
Benton County	Attainment/Unclassifiable.		
Big Stone County	Attainment/Unclassifiable.		
Blue Earth County	Attainment/Unclassifiable.		
Brown County	Attainment/Unclassifiable.		
Carlton County	Attainment/Unclassifiable.		
Carver County	Attainment/Unclassifiable.		
Cass County	Attainment/Unclassifiable.		
Chippewa County	Attainment/Unclassifiable.		
Chisago County	Attainment/Unclassifiable.		
Clay County	Attainment/Unclassifiable.		
Clearwater County	Attainment/Unclassifiable.		
Cook County	Attainment/Unclassifiable.		
Cottonwood County	Attainment/Unclassifiable.		
Crow Wing County	Attainment/Unclassifiable.		
Dakota County	Attainment/Unclassifiable.		
Dodge County	Attainment/Unclassifiable.		
Douglas County	Attainment/Unclassifiable.		
Faribault County	Attainment/Unclassifiable.		
Fillmore County	Attainment/Unclassifiable.		
Freeborn County	Attainment/Unclassifiable.		
Goodhue County	Attainment/Unclassifiable.		
Grant County	Attainment/Unclassifiable.		
Hennepin County	Attainment/Unclassifiable.		
Houston County	Attainment/Unclassifiable.		
Hubbard County	Attainment/Unclassifiable.		
Isanti County	Attainment/Unclassifiable.		
Itasca County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Kanabec County	Attainment/Unclassifiable.		
Kandiyohi County	Attainment/Unclassifiable.		
Kittson County	Attainment/Unclassifiable.		
Koochiching County	Attainment/Unclassifiable.		
Lac qui Parle County	Attainment/Unclassifiable.		
Lake County	Attainment/Unclassifiable.		

MINNESOTA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Lake of the Woods County	Attainment/Unclassifiable.		
Le Sueur County	Attainment/Unclassifiable.		
Lincoln County	Attainment/Unclassifiable.		
Lyon County	Attainment/Unclassifiable.		
McLeod County	Attainment/Unclassifiable.		
Mahnomen County	Attainment/Unclassifiable.		
Marshall County	Attainment/Unclassifiable.		
Martin County	Attainment/Unclassifiable.		
Meeker County	Attainment/Unclassifiable.		
Mille Lacs County	Attainment/Unclassifiable.		
Morrison County	Attainment/Unclassifiable.		
Mower County	Attainment/Unclassifiable.		
Murray County	Attainment/Unclassifiable.		
Nicollet County	Attainment/Unclassifiable.		
Nobles County	Attainment/Unclassifiable.		
Norman County	Attainment/Unclassifiable.		
Olmsted County	Attainment/Unclassifiable.		
Otter Tail County	Attainment/Unclassifiable.		
Pennington County	Attainment/Unclassifiable.		
Pine County	Attainment/Unclassifiable.		
Pipestone County	Attainment/Unclassifiable.		
Polk County	Attainment/Unclassifiable.		
Pope County	Attainment/Unclassifiable.		
Ramsey County	Attainment/Unclassifiable.		
Red Lake County	Attainment/Unclassifiable.		
Redwood County	Attainment/Unclassifiable.		
Renville County	Attainment/Unclassifiable.		
Rice County	Attainment/Unclassifiable.		
Rock County	Attainment/Unclassifiable.		
Roseau County	Attainment/Unclassifiable.		
St. Louis County	Attainment/Unclassifiable.		
Scott County	Attainment/Unclassifiable.		
Sherburne County	Attainment/Unclassifiable.		
Sibley County	Attainment/Unclassifiable.		
Stearns County	Attainment/Unclassifiable.		
Steele County	Attainment/Unclassifiable.		
Stevens County	Attainment/Unclassifiable.		
Swift County	Attainment/Unclassifiable.		
Todd County	Attainment/Unclassifiable.		
Traverse County	Attainment/Unclassifiable.		
Wabasha County	Attainment/Unclassifiable.		
Wadena County	Attainment/Unclassifiable.		
Waseca County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		
Watsonwan County	Attainment/Unclassifiable.		
Wilkin County	Attainment/Unclassifiable.		
Winona County	Attainment/Unclassifiable.		
Wright County	Attainment/Unclassifiable.		
Yellow Medicine County	Attainment/Unclassifiable.		
Fond du Lac Band of Lake Superior Chippewa Indian Tribe ³	Attainment/Unclassifiable.		

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² This date is January 16, 2018, unless otherwise noted.

³ Includes Indian country of the tribe listed in this table located in the identified area. Information pertaining to areas of Indian country in this table is intended for Clean Air Act planning purposes only and is not an EPA determination of Indian country status or any Indian country boundary. EPA lacks the authority to establish Indian country land status, and is making no determination of Indian country boundaries, in this table.

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 ■ 23. Section 81.325 is amended by adding a table titled “Mississippi—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Mississippi—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.325 Mississippi.
 * * * * *

MISSISSIPPI—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Adams County	Attainment/Unclassifiable.		
Alcorn County	Attainment/Unclassifiable.		
Amite County	Attainment/Unclassifiable.		
Attala County	Attainment/Unclassifiable.		
Benton County	Attainment/Unclassifiable.		
Bolivar County	Attainment/Unclassifiable.		
Calhoun County	Attainment/Unclassifiable.		
Carroll County	Attainment/Unclassifiable.		
Chickasaw County	Attainment/Unclassifiable.		
Choctaw County	Attainment/Unclassifiable.		
Claiborne County	Attainment/Unclassifiable.		
Clarke County	Attainment/Unclassifiable.		
Clay County	Attainment/Unclassifiable.		
Coahoma County	Attainment/Unclassifiable.		
Copiah County	Attainment/Unclassifiable.		
Covington County	Attainment/Unclassifiable.		
DeSoto County	Attainment/Unclassifiable.		
Forrest County	Attainment/Unclassifiable.		
Franklin County	Attainment/Unclassifiable.		
George County	Attainment/Unclassifiable.		
Greene County	Attainment/Unclassifiable.		
Grenada County	Attainment/Unclassifiable.		
Hancock County	Attainment/Unclassifiable.		
Harrison County	Attainment/Unclassifiable.		
Hinds County	Attainment/Unclassifiable.		
Holmes County	Attainment/Unclassifiable.		
Humphreys County	Attainment/Unclassifiable.		
Issaquena County	Attainment/Unclassifiable.		
Itawamba County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Jasper County	Attainment/Unclassifiable.		
Jefferson County	Attainment/Unclassifiable.		
Jefferson Davis County	Attainment/Unclassifiable.		
Jones County	Attainment/Unclassifiable.		
Kemper County	Attainment/Unclassifiable.		
Lafayette County	Attainment/Unclassifiable.		
Lamar County	Attainment/Unclassifiable.		
Lauderdale County	Attainment/Unclassifiable.		
Lawrence County	Attainment/Unclassifiable.		
Leake County	Attainment/Unclassifiable.		
Lee County	Attainment/Unclassifiable.		
Leflore County	Attainment/Unclassifiable.		
Lincoln County	Attainment/Unclassifiable.		
Lowndes County	Attainment/Unclassifiable.		
Madison County	Attainment/Unclassifiable.		
Marion County	Attainment/Unclassifiable.		
Marshall County	Attainment/Unclassifiable.		
Monroe County	Attainment/Unclassifiable.		
Montgomery County	Attainment/Unclassifiable.		
Neshoba County	Attainment/Unclassifiable.		
Newton County	Attainment/Unclassifiable.		
Noxubee County	Attainment/Unclassifiable.		
Oktoberfest County	Attainment/Unclassifiable.		
Panola County	Attainment/Unclassifiable.		
Pearl River County	Attainment/Unclassifiable.		
Perry County	Attainment/Unclassifiable.		
Pike County	Attainment/Unclassifiable.		
Pontotoc County	Attainment/Unclassifiable.		
Prentiss County	Attainment/Unclassifiable.		
Quitman County	Attainment/Unclassifiable.		
Rankin County	Attainment/Unclassifiable.		
Scott County	Attainment/Unclassifiable.		
Sharkey County	Attainment/Unclassifiable.		
Simpson County	Attainment/Unclassifiable.		
Smith County	Attainment/Unclassifiable.		
Stone County	Attainment/Unclassifiable.		
Sunflower County	Attainment/Unclassifiable.		
Tallahatchie County	Attainment/Unclassifiable.		
Tate County	Attainment/Unclassifiable.		

MISSISSIPPI—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Tippah County	Attainment/Unclassifiable.		
Tishomingo County	Attainment/Unclassifiable.		
Tunica County	Attainment/Unclassifiable.		
Union County	Attainment/Unclassifiable.		
Walthall County	Attainment/Unclassifiable.		
Warren County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		
Wayne County	Attainment/Unclassifiable.		
Webster County	Attainment/Unclassifiable.		
Wilkinson County	Attainment/Unclassifiable.		
Winston County	Attainment/Unclassifiable.		
Yalobusha County	Attainment/Unclassifiable.		
Yazoo County	Attainment/Unclassifiable.		

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² This date is January 16, 2018, unless otherwise noted.

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 ■ 24. Section 81.326 is amended by adding a table titled “Missouri—2015 8-Hour Ozone NAAQS (Primary and Secondary)” following the table titled § 81.326 Missouri. “Missouri—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows: * * * * *

MISSOURI—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Adair County	Attainment/Unclassifiable.		
Andrew County	Attainment/Unclassifiable.		
Atchison County	Attainment/Unclassifiable.		
Audrain County	Attainment/Unclassifiable.		
Barry County	Attainment/Unclassifiable.		
Barton County	Attainment/Unclassifiable.		
Bates County	Attainment/Unclassifiable.		
Benton County	Attainment/Unclassifiable.		
Bollinger County	Attainment/Unclassifiable.		
Boone County	Attainment/Unclassifiable.		
Buchanan County	Attainment/Unclassifiable.		
Butler County	Attainment/Unclassifiable.		
Caldwell County	Attainment/Unclassifiable.		
Callaway County	Attainment/Unclassifiable.		
Camden County	Attainment/Unclassifiable.		
Cape Girardeau County	Attainment/Unclassifiable.		
Carroll County	Attainment/Unclassifiable.		
Carter County	Attainment/Unclassifiable.		
Cass County	Attainment/Unclassifiable.		
Cedar County	Attainment/Unclassifiable.		
Chariton County	Attainment/Unclassifiable.		
Christian County	Attainment/Unclassifiable.		
Clark County	Attainment/Unclassifiable.		
Clay County	Attainment/Unclassifiable.		
Clinton County	Attainment/Unclassifiable.		
Cole County	Attainment/Unclassifiable.		
Cooper County	Attainment/Unclassifiable.		
Crawford County	Attainment/Unclassifiable.		
Dade County	Attainment/Unclassifiable.		
Dallas County	Attainment/Unclassifiable.		
Daviess County	Attainment/Unclassifiable.		
DeKalb County	Attainment/Unclassifiable.		
Dent County	Attainment/Unclassifiable.		
Douglas County	Attainment/Unclassifiable.		
Dunklin County	Attainment/Unclassifiable.		
Gasconade County	Attainment/Unclassifiable.		
Gentry County	Attainment/Unclassifiable.		

MISSOURI—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Greene County	Attainment/Unclassifiable.		
Grundy County	Attainment/Unclassifiable.		
Harrison County	Attainment/Unclassifiable.		
Henry County	Attainment/Unclassifiable.		
Hickory County	Attainment/Unclassifiable.		
Holt County	Attainment/Unclassifiable.		
Howard County	Attainment/Unclassifiable.		
Howell County	Attainment/Unclassifiable.		
Iron County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Jasper County	Attainment/Unclassifiable.		
Johnson County	Attainment/Unclassifiable.		
Knox County	Attainment/Unclassifiable.		
Laclede County	Attainment/Unclassifiable.		
Lafayette County	Attainment/Unclassifiable.		
Lawrence County	Attainment/Unclassifiable.		
Lewis County	Attainment/Unclassifiable.		
Linn County	Attainment/Unclassifiable.		
Livingston County	Attainment/Unclassifiable.		
McDonald County	Attainment/Unclassifiable.		
Macon County	Attainment/Unclassifiable.		
Madison County	Attainment/Unclassifiable.		
Maries County	Attainment/Unclassifiable.		
Marion County	Attainment/Unclassifiable.		
Mercer County	Attainment/Unclassifiable.		
Miller County	Attainment/Unclassifiable.		
Mississippi County	Attainment/Unclassifiable.		
Moniteau County	Attainment/Unclassifiable.		
Monroe County	Attainment/Unclassifiable.		
Montgomery County	Attainment/Unclassifiable.		
Morgan County	Attainment/Unclassifiable.		
New Madrid County	Attainment/Unclassifiable.		
Newton County	Attainment/Unclassifiable.		
Nodaway County	Attainment/Unclassifiable.		
Oregon County	Attainment/Unclassifiable.		
Osage County	Attainment/Unclassifiable.		
Ozark County	Attainment/Unclassifiable.		
Pemiscot County	Attainment/Unclassifiable.		
Perry County	Attainment/Unclassifiable.		
Pettis County	Attainment/Unclassifiable.		
Phelps County	Attainment/Unclassifiable.		
Pike County	Attainment/Unclassifiable.		
Platte County	Attainment/Unclassifiable.		
Polk County	Attainment/Unclassifiable.		
Pulaski County	Attainment/Unclassifiable.		
Putnam County	Attainment/Unclassifiable.		
Ralls County	Attainment/Unclassifiable.		
Randolph County	Attainment/Unclassifiable.		
Ray County	Attainment/Unclassifiable.		
Reynolds County	Attainment/Unclassifiable.		
Ripley County	Attainment/Unclassifiable.		
St. Clair County	Attainment/Unclassifiable.		
Ste. Genevieve County	Attainment/Unclassifiable.		
Saline County	Attainment/Unclassifiable.		
Schuyler County	Attainment/Unclassifiable.		
Scotland County	Attainment/Unclassifiable.		
Scott County	Attainment/Unclassifiable.		
Shannon County	Attainment/Unclassifiable.		
Shelby County	Attainment/Unclassifiable.		
Stoddard County	Attainment/Unclassifiable.		
Stone County	Attainment/Unclassifiable.		
Sullivan County	Attainment/Unclassifiable.		
Taney County	Attainment/Unclassifiable.		
Texas County	Attainment/Unclassifiable.		
Vernon County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		
Wayne County	Attainment/Unclassifiable.		
Webster County	Attainment/Unclassifiable.		
Worth County	Attainment/Unclassifiable.		

MISSOURI—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Wright County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

* * * * *
 ■ 25. Section 81.327 is amended by adding a table titled “Montana—2015 8-Hour Ozone NAAQS (Primary and Secondary)” following the table titled § 81.327 Montana.
 “Montana—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows: * * * * *

MONTANA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Statewide	Attainment/Unclassifiable.		
Beaverhead County.				
Big Horn County.				
Blaine County.				
Broadwater County.				
Carbon County.				
Carter County.				
Cascade County.				
Chouteau County.				
Custer County.				
Daniels County.				
Dawson County.				
Deer Lodge County.				
Fallon County.				
Fergus County.				
Flathead County.				
Gallatin County.				
Garfield County.				
Glacier County.				
Golden Valley County.				
Granite County.				
Hill County.				
Jefferson County.				
Judith Basin County.				
Lake County.				
Lewis and Clark County.				
Liberty County.				
Lincoln County.				
McCone County.				
Madison County.				
Meagher County.				
Mineral County.				
Missoula County.				
Musselshell County.				
Park County.				
Petroleum County.				
Phillips County.				
Pondera County.				
Powder River County.				
Powell County.				
Prairie County.				
Ravalli County.				
Richland County.				
Roosevelt County.				
Rosebud County.				
Sanders County.				
Sheridan County.				
Silver Bow County.				
Stillwater County.				

MONTANA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Sweet Grass County. Teton County. Toole County. Treasure County. Valley County. Wheatland County. Wibaux County. Yellowstone County.				

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

² This date is January 16, 2018, unless otherwise noted.

* * * * *
 Secondary)” following the table titled **§ 81.328 Nebraska.**
 ■ 26. Section 81.328 is amended by “Nebraska—2008 8-Hour Ozone * * * * *
 adding a table titled “Nebraska—2015 8- NAAQS (Primary and secondary)” to
 Hour Ozone NAAQS (Primary and read as follows:

NEBRASKA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Statewide	Attainment/Unclassifiable.		
Adams County.				
Antelope County.				
Arthur County.				
Banner County.				
Blaine County.				
Boone County.				
Box Butte County.				
Boyd County.				
Brown County.				
Buffalo County.				
Burt County.				
Butler County.				
Cass County.				
Cedar County.				
Chase County.				
Cherry County.				
Cheyenne County.				
Clay County.				
Colfax County.				
Cuming County.				
Custer County.				
Dakota County.				
Dawes County.				
Dawson County.				
Deuel County.				
Dixon County.				
Dodge County.				
Douglas County.				
Dundy County.				
Fillmore County.				
Franklin County.				
Frontier County.				
Furnas County.				
Gage County.				
Garden County.				
Garfield County.				
Gosper County.				
Grant County.				
Greeley County.				
Hall County.				
Hamilton County.				

NEBRASKA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Harlan County. Hayes County. Hitchcock County. Holt County. Hooker County. Howard County. Jefferson County. Johnson County. Kearney County. Keith County. Keya Paha County. Kimball County. Knox County. Lancaster County. Lincoln County. Logan County. Loup County. McPherson County. Madison County. Merrick County. Morrill County. Nance County. Nemaha County. Nuckolls County. Otoe County. Pawnee County. Perkins County. Phelps County. Pierce County. Platte County. Polk County. Red Willow County. Richardson County. Rock County. Saline County. Sarpy County. Saunders County. Scotts Bluff County. Seward County. Sheridan County. Sherman County. Sioux County. Stanton County. Thayer County. Thomas County. Thurston County. Valley County. Washington County. Wayne County. Webster County. Wheeler County. York County.				

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

² This date is January 16, 2018, unless otherwise noted.

* * * * *
 ■ 27. Section 81.329 is amended by adding a table titled “Nevada—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Nevada—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.329 Nevada.

* * * * *

NEVADA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Churchill County	Attainment/Unclassifiable.		
Elko County	Attainment/Unclassifiable.		
Esmeralda County	Attainment/Unclassifiable.		
Eureka County	Attainment/Unclassifiable.		
Humboldt County	Attainment/Unclassifiable.		
Lander County	Attainment/Unclassifiable.		
Lyon County	Attainment/Unclassifiable.		
Mineral County	Attainment/Unclassifiable.		
Pershing County	Attainment/Unclassifiable.		
Storey County	Attainment/Unclassifiable.		
White Pine County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

* * * * * and Secondary)” following the table § 81.330 New Hampshire.
 ■ 28. Section 81.330 is amended by adding a table titled “New Hampshire—2015 8-Hour Ozone NAAQS (Primary and Secondary)” to read as follows:
 * * * * *

NEW HAMPSHIRE—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Statewide	Attainment/Unclassifiable.		
Belknap County.				
Carroll County.				
Cheshire County.				
Coos County.				
Grafton County.				
Hillsborough County.				
Merrimack County.				
Rockingham County.				
Strafford County.				
Sullivan County.				

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

² This date is January 16, 2018, unless otherwise noted.

* * * * * and Secondary)” following the table § 81.332 New Mexico.
 ■ 29. Section 81.332 is amended by adding a table titled “New Mexico—2015 8-Hour Ozone NAAQS (Primary and Secondary)” to read as follows:
 * * * * *

NEW MEXICO—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Bernalillo County	Attainment/Unclassifiable.		
Catron County	Attainment/Unclassifiable.		
Chaves County	Attainment/Unclassifiable.		
Cibola County	Attainment/Unclassifiable.		
Colfax County	Attainment/Unclassifiable.		
Curry County	Attainment/Unclassifiable.		
De Baca County	Attainment/Unclassifiable.		
Eddy County	Attainment/Unclassifiable.		

NEW MEXICO—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Grant County	Attainment/Unclassifiable.		
Guadalupe County	Attainment/Unclassifiable.		
Harding County	Attainment/Unclassifiable.		
Hidalgo County	Attainment/Unclassifiable.		
Lea County	Attainment/Unclassifiable.		
Lincoln County	Attainment/Unclassifiable.		
Los Alamos County	Attainment/Unclassifiable.		
McKinley County	Attainment/Unclassifiable.		
Mora County	Attainment/Unclassifiable.		
Quay County	Attainment/Unclassifiable.		
Rio Arriba County	Attainment/Unclassifiable.		
Roosevelt County	Attainment/Unclassifiable.		
Sandoval County	Attainment/Unclassifiable.		
San Juan County	Attainment/Unclassifiable.		
San Miguel County	Attainment/Unclassifiable.		
Santa Fe County	Attainment/Unclassifiable.		
Socorro County	Attainment/Unclassifiable.		
Taos County	Attainment/Unclassifiable.		
Torrance County	Attainment/Unclassifiable.		
Union County	Attainment/Unclassifiable.		
Valencia County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

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■ 30. Section 81.333 is amended by adding a table titled “New York—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “New York—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.333 New York.

* * * * *

NEW YORK—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Albany County	Attainment/Unclassifiable.		
Allegany County	Attainment/Unclassifiable.		
Broome County	Attainment/Unclassifiable.		
Cattaraugus County	Attainment/Unclassifiable.		
Cayuga County	Attainment/Unclassifiable.		
Chautauqua County	Attainment/Unclassifiable.		
Chemung County	Attainment/Unclassifiable.		
Chenango County	Attainment/Unclassifiable.		
Clinton County	Attainment/Unclassifiable.		
Columbia County	Attainment/Unclassifiable.		
Cortland County	Attainment/Unclassifiable.		
Delaware County	Attainment/Unclassifiable.		
Erie County	Attainment/Unclassifiable.		
Essex County	Attainment/Unclassifiable.		
Franklin County	Attainment/Unclassifiable.		
Fulton County	Attainment/Unclassifiable.		
Genesee County	Attainment/Unclassifiable.		
Greene County	Attainment/Unclassifiable.		
Hamilton County	Attainment/Unclassifiable.		
Herkimer County	Attainment/Unclassifiable.		
Jefferson County	Attainment/Unclassifiable.		
Lewis County	Attainment/Unclassifiable.		
Livingston County	Attainment/Unclassifiable.		
Madison County	Attainment/Unclassifiable.		
Monroe County	Attainment/Unclassifiable.		
Montgomery County	Attainment/Unclassifiable.		
Niagara County	Attainment/Unclassifiable.		
Oneida County	Attainment/Unclassifiable.		
Onondaga County	Attainment/Unclassifiable.		

NEW YORK—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Ontario County	Attainment/Unclassifiable.		
Orleans County	Attainment/Unclassifiable.		
Oswego County	Attainment/Unclassifiable.		
Otsego County	Attainment/Unclassifiable.		
Rensselaer County	Attainment/Unclassifiable.		
St. Lawrence County	Attainment/Unclassifiable.		
Saratoga County	Attainment/Unclassifiable.		
Schenectady County	Attainment/Unclassifiable.		
Schoharie County	Attainment/Unclassifiable.		
Schuyler County	Attainment/Unclassifiable.		
Seneca County	Attainment/Unclassifiable.		
Steuben County	Attainment/Unclassifiable.		
Sullivan County	Attainment/Unclassifiable.		
Tioga County	Attainment/Unclassifiable.		
Tompkins County	Attainment/Unclassifiable.		
Warren County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		
Wayne County	Attainment/Unclassifiable.		
Wyoming County	Attainment/Unclassifiable.		
Yates County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

* * * * * and Secondary)” following the table § 81.334 North Carolina.
 ■ 31. Section 81.334 is amended by adding a table titled “North Carolina—2015 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

NORTH CAROLINA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Alamance County	Attainment/Unclassifiable.		
Alexander County	Attainment/Unclassifiable.		
Alleghany County	Attainment/Unclassifiable.		
Anson County	Attainment/Unclassifiable.		
Ashe County	Attainment/Unclassifiable.		
Avery County	Attainment/Unclassifiable.		
Beaufort County	Attainment/Unclassifiable.		
Bertie County	Attainment/Unclassifiable.		
Bladen County	Attainment/Unclassifiable.		
Brunswick County	Attainment/Unclassifiable.		
Buncombe County	Attainment/Unclassifiable.		
Burke County	Attainment/Unclassifiable.		
Cabarrus County	Attainment/Unclassifiable.		
Caldwell County	Attainment/Unclassifiable.		
Camden County	Attainment/Unclassifiable.		
Carteret County	Attainment/Unclassifiable.		
Caswell County	Attainment/Unclassifiable.		
Catawba County	Attainment/Unclassifiable.		
Chatham County	Attainment/Unclassifiable.		
Cherokee County	Attainment/Unclassifiable.		
Chowan County	Attainment/Unclassifiable.		
Clay County	Attainment/Unclassifiable.		
Cleveland County	Attainment/Unclassifiable.		
Columbus County	Attainment/Unclassifiable.		
Craven County	Attainment/Unclassifiable.		
Cumberland County	Attainment/Unclassifiable.		
Currituck County	Attainment/Unclassifiable.		
Dare County	Attainment/Unclassifiable.		
Davidson County	Attainment/Unclassifiable.		
Davie County	Attainment/Unclassifiable.		

NORTH CAROLINA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Duplin County	Attainment/Unclassifiable.		
Durham County	Attainment/Unclassifiable.		
Edgecombe County	Attainment/Unclassifiable.		
Forsyth County	Attainment/Unclassifiable.		
Franklin County	Attainment/Unclassifiable.		
Gaston County	Attainment/Unclassifiable.		
Gates County	Attainment/Unclassifiable.		
Graham County	Attainment/Unclassifiable.		
Granville County	Attainment/Unclassifiable.		
Greene County	Attainment/Unclassifiable.		
Guilford County	Attainment/Unclassifiable.		
Halifax County	Attainment/Unclassifiable.		
Harnett County	Attainment/Unclassifiable.		
Haywood County	Attainment/Unclassifiable.		
Henderson County	Attainment/Unclassifiable.		
Hertford County	Attainment/Unclassifiable.		
Hoke County	Attainment/Unclassifiable.		
Hyde County	Attainment/Unclassifiable.		
Iredell County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Johnston County	Attainment/Unclassifiable.		
Jones County	Attainment/Unclassifiable.		
Lee County	Attainment/Unclassifiable.		
Lenoir County	Attainment/Unclassifiable.		
Lincoln County	Attainment/Unclassifiable.		
McDowell County	Attainment/Unclassifiable.		
Macon County	Attainment/Unclassifiable.		
Madison County	Attainment/Unclassifiable.		
Martin County	Attainment/Unclassifiable.		
Mecklenburg County	Attainment/Unclassifiable.		
Mitchell County	Attainment/Unclassifiable.		
Montgomery County	Attainment/Unclassifiable.		
Moore County	Attainment/Unclassifiable.		
Nash County	Attainment/Unclassifiable.		
New Hanover County	Attainment/Unclassifiable.		
Northampton County	Attainment/Unclassifiable.		
Onslow County	Attainment/Unclassifiable.		
Orange County	Attainment/Unclassifiable.		
Pamlico County	Attainment/Unclassifiable.		
Pasquotank County	Attainment/Unclassifiable.		
Pender County	Attainment/Unclassifiable.		
Perquimans County	Attainment/Unclassifiable.		
Person County	Attainment/Unclassifiable.		
Pitt County	Attainment/Unclassifiable.		
Polk County	Attainment/Unclassifiable.		
Randolph County	Attainment/Unclassifiable.		
Richmond County	Attainment/Unclassifiable.		
Robeson County	Attainment/Unclassifiable.		
Rockingham County	Attainment/Unclassifiable.		
Rowan County	Attainment/Unclassifiable.		
Rutherford County	Attainment/Unclassifiable.		
Sampson County	Attainment/Unclassifiable.		
Scotland County	Attainment/Unclassifiable.		
Stanly County	Attainment/Unclassifiable.		
Stokes County	Attainment/Unclassifiable.		
Surry County	Attainment/Unclassifiable.		
Swain County	Attainment/Unclassifiable.		
Transylvania County	Attainment/Unclassifiable.		
Tyrrell County	Attainment/Unclassifiable.		
Union County	Attainment/Unclassifiable.		
Vance County	Attainment/Unclassifiable.		
Wake County	Attainment/Unclassifiable.		
Warren County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		
Watauga County	Attainment/Unclassifiable.		
Wayne County	Attainment/Unclassifiable.		
Wilkes County	Attainment/Unclassifiable.		
Wilson County	Attainment/Unclassifiable.		
Yadkin County	Attainment/Unclassifiable.		

NORTH CAROLINA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Yancey County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

* * * * * and Secondary)” following the table § 81.335 North Dakota.
 ■ 32. Section 81.335 is amended by adding a table titled “North Dakota—2015 8-Hour Ozone NAAQS (Primary and Secondary)” to read as follows:
 * * * * *

NORTH DAKOTA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Statewide	Attainment/Unclassifiable.		
Adams County.				
Barnes County.				
Benson County.				
Billings County.				
Bottineau County.				
Bowman County.				
Burke County.				
Burleigh County.				
Cass County.				
Cavalier County.				
Dickey County.				
Divide County.				
Dunn County.				
Eddy County.				
Emmons County.				
Foster County.				
Golden Valley County.				
Grand Forks County.				
Grant County.				
Griggs County.				
Hettinger County.				
Kidder County.				
LaMoure County.				
Logan County.				
McHenry County.				
McIntosh County.				
McKenzie County.				
McLean County.				
Mercer County.				
Morton County.				
Mountrail County.				
Nelson County.				
Oliver County.				
Pembina County.				
Pierce County.				
Ramsey County.				
Ransom County.				
Renville County.				
Richland County.				
Rolette County.				
Sargent County.				
Sheridan County.				
Sioux County.				
Slope County.				
Stark County.				
Steele County.				
Stutsman County.				
Towner County.				

NORTH DAKOTA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Trail County. Walsh County. Ward County. Wells County. Williams County.				

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

² This date is January 16, 2018, unless otherwise noted.

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■ 33. Section 81.336 is amended by adding a table titled “Ohio—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Ohio—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.336 Ohio.

* * * * *

OHIO—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Adams County		Attainment/Unclassifiable.		
Allen County		Attainment/Unclassifiable.		
Ashland County		Attainment/Unclassifiable.		
Athens County		Attainment/Unclassifiable.		
Auglaize County		Attainment/Unclassifiable.		
Belmont County		Attainment/Unclassifiable.		
Champaign County		Attainment/Unclassifiable.		
Clark County		Attainment/Unclassifiable.		
Columbiana County		Attainment/Unclassifiable.		
Coshocton County		Attainment/Unclassifiable.		
Crawford County		Attainment/Unclassifiable.		
Darke County		Attainment/Unclassifiable.		
Defiance County		Attainment/Unclassifiable.		
Fulton County		Attainment/Unclassifiable.		
Gallia County		Attainment/Unclassifiable.		
Hancock County		Attainment/Unclassifiable.		
Hardin County		Attainment/Unclassifiable.		
Harrison County		Attainment/Unclassifiable.		
Henry County		Attainment/Unclassifiable.		
Highland County		Attainment/Unclassifiable.		
Holmes County		Attainment/Unclassifiable.		
Jackson County		Attainment/Unclassifiable.		
Jefferson County		Attainment/Unclassifiable.		
Lawrence County		Attainment/Unclassifiable.		
Lucas County		Attainment/Unclassifiable.		
Mahoning County		Attainment/Unclassifiable.		
Meigs County		Attainment/Unclassifiable.		
Mercer County		Attainment/Unclassifiable.		
Miami County		Attainment/Unclassifiable.		
Monroe County		Attainment/Unclassifiable.		
Morgan County		Attainment/Unclassifiable.		
Noble County		Attainment/Unclassifiable.		
Ottawa County		Attainment/Unclassifiable.		
Paulding County		Attainment/Unclassifiable.		
Pike County		Attainment/Unclassifiable.		
Putnam County		Attainment/Unclassifiable.		
Richland County		Attainment/Unclassifiable.		
Sandusky County		Attainment/Unclassifiable.		
Scioto County		Attainment/Unclassifiable.		
Seneca County		Attainment/Unclassifiable.		
Shelby County		Attainment/Unclassifiable.		
Van Wert County		Attainment/Unclassifiable.		
Vinton County		Attainment/Unclassifiable.		
Washington County		Attainment/Unclassifiable.		
Wayne County		Attainment/Unclassifiable.		

OHIO—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Williams County	Attainment/Unclassifiable.		
Wood County	Attainment/Unclassifiable.		
Wyandot County	Attainment/Unclassifiable.		

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² This date is January 16, 2018, unless otherwise noted.

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■ 34. Section 81.337 is amended by adding a table titled “Oklahoma—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Oklahoma—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.337 Oklahoma.

* * * * *

OKLAHOMA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Adair County	Attainment/Unclassifiable.		
Alfalfa County	Attainment/Unclassifiable.		
Atoka County	Attainment/Unclassifiable.		
Beaver County	Attainment/Unclassifiable.		
Beckham County	Attainment/Unclassifiable.		
Blaine County	Attainment/Unclassifiable.		
Caddo County	Attainment/Unclassifiable.		
Canadian County	Attainment/Unclassifiable.		
Carter County	Attainment/Unclassifiable.		
Cherokee County	Attainment/Unclassifiable.		
Choctaw County	Attainment/Unclassifiable.		
Cimarron County	Attainment/Unclassifiable.		
Cleveland County	Attainment/Unclassifiable.		
Coal County	Attainment/Unclassifiable.		
Comanche County	Attainment/Unclassifiable.		
Cotton County	Attainment/Unclassifiable.		
Craig County	Attainment/Unclassifiable.		
Creek County	Attainment/Unclassifiable.		
Custer County	Attainment/Unclassifiable.		
Delaware County	Attainment/Unclassifiable.		
Dewey County	Attainment/Unclassifiable.		
Ellis County	Attainment/Unclassifiable.		
Garfield County	Attainment/Unclassifiable.		
Garvin County	Attainment/Unclassifiable.		
Grady County	Attainment/Unclassifiable.		
Grant County	Attainment/Unclassifiable.		
Greer County	Attainment/Unclassifiable.		
Harmon County	Attainment/Unclassifiable.		
Harper County	Attainment/Unclassifiable.		
Haskell County	Attainment/Unclassifiable.		
Hughes County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Jefferson County	Attainment/Unclassifiable.		
Johnston County	Attainment/Unclassifiable.		
Kay County	Attainment/Unclassifiable.		
Kingfisher County	Attainment/Unclassifiable.		
Kiowa County	Attainment/Unclassifiable.		
Latimer County	Attainment/Unclassifiable.		
Le Flore County	Attainment/Unclassifiable.		
Lincoln County	Attainment/Unclassifiable.		
Logan County	Attainment/Unclassifiable.		
Love County	Attainment/Unclassifiable.		
McClain County	Attainment/Unclassifiable.		
McCurtain County	Attainment/Unclassifiable.		
McIntosh County	Attainment/Unclassifiable.		
Major County	Attainment/Unclassifiable.		
Marshall County	Attainment/Unclassifiable.		

OKLAHOMA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Mayes County	Attainment/Unclassifiable.		
Murray County	Attainment/Unclassifiable.		
Muskogee County	Attainment/Unclassifiable.		
Noble County	Attainment/Unclassifiable.		
Nowata County	Attainment/Unclassifiable.		
Okfuskee County	Attainment/Unclassifiable.		
Oklahoma County	Attainment/Unclassifiable.		
Okmulgee County	Attainment/Unclassifiable.		
Osage County	Attainment/Unclassifiable.		
Ottawa County	Attainment/Unclassifiable.		
Pawnee County	Attainment/Unclassifiable.		
Payne County	Attainment/Unclassifiable.		
Pittsburg County	Attainment/Unclassifiable.		
Pontotoc County	Attainment/Unclassifiable.		
Pottawatomie County	Attainment/Unclassifiable.		
Pushmataha County	Attainment/Unclassifiable.		
Roger Mills County	Attainment/Unclassifiable.		
Rogers County	Attainment/Unclassifiable.		
Seminole County	Attainment/Unclassifiable.		
Sequoyah County	Attainment/Unclassifiable.		
Stephens County	Attainment/Unclassifiable.		
Texas County	Attainment/Unclassifiable.		
Tillman County	Attainment/Unclassifiable.		
Tulsa County	Attainment/Unclassifiable.		
Wagoner County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		
Washita County	Attainment/Unclassifiable.		
Woods County	Attainment/Unclassifiable.		
Woodward County	Attainment/Unclassifiable.		

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² This date is January 16, 2018, unless otherwise noted.

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■ 35. Section 81.338 is amended by adding a table titled “Oregon—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Oregon—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.338 Oregon.

* * * * *

OREGON—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Baker County	Attainment/Unclassifiable.		
Clatsop County	Attainment/Unclassifiable.		
Coos County	Attainment/Unclassifiable.		
Crook County	Attainment/Unclassifiable.		
Curry County	Attainment/Unclassifiable.		
Deschutes County	Attainment/Unclassifiable.		
Douglas County	Attainment/Unclassifiable.		
Gilliam County	Attainment/Unclassifiable.		
Grant County	Attainment/Unclassifiable.		
Harney County	Attainment/Unclassifiable.		
Hood River County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Jefferson County	Attainment/Unclassifiable.		
Josephine County	Attainment/Unclassifiable.		
Klamath County	Attainment/Unclassifiable.		
Lake County	Attainment/Unclassifiable.		
Lane County	Attainment/Unclassifiable.		
Lincoln County	Attainment/Unclassifiable.		
Malheur County	Attainment/Unclassifiable.		
Morrow County	Attainment/Unclassifiable.		

OREGON—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Sherman County	Attainment/Unclassifiable.		
Tillamook County	Attainment/Unclassifiable.		
Umatilla County	Attainment/Unclassifiable.		
Union County	Attainment/Unclassifiable.		
Wallowa County	Attainment/Unclassifiable.		
Wasco County	Attainment/Unclassifiable.		
Wheeler County	Attainment/Unclassifiable.		

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² This date is January 16, 2018, unless otherwise noted.

* * * * * and Secondary)” following the table § 81.339 Pennsylvania.
 ■ 36. Section 81.339 is amended by adding a table titled “Pennsylvania—2015 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:
 Ozone NAAQS (Primary and secondary)”

PENNSYLVANIA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Allegheny County	Attainment/Unclassifiable.		
Armstrong County	Attainment/Unclassifiable.		
Beaver County	Attainment/Unclassifiable.		
Bedford County	Attainment/Unclassifiable.		
Blair County	Attainment/Unclassifiable.		
Bradford County	Attainment/Unclassifiable.		
Butler County	Attainment/Unclassifiable.		
Cambria County	Attainment/Unclassifiable.		
Cameron County	Attainment/Unclassifiable.		
Centre County	Attainment/Unclassifiable.		
Clarion County	Attainment/Unclassifiable.		
Clearfield County	Attainment/Unclassifiable.		
Clinton County	Attainment/Unclassifiable.		
Columbia County	Attainment/Unclassifiable.		
Crawford County	Attainment/Unclassifiable.		
Elk County	Attainment/Unclassifiable.		
Erie County	Attainment/Unclassifiable.		
Fayette County	Attainment/Unclassifiable.		
Forest County	Attainment/Unclassifiable.		
Fulton County	Attainment/Unclassifiable.		
Greene County	Attainment/Unclassifiable.		
Huntingdon County	Attainment/Unclassifiable.		
Indiana County	Attainment/Unclassifiable.		
Jefferson County	Attainment/Unclassifiable.		
Juniata County	Attainment/Unclassifiable.		
Lackawanna County	Attainment/Unclassifiable.		
Lawrence County	Attainment/Unclassifiable.		
Luzerne County	Attainment/Unclassifiable.		
Lycoming County	Attainment/Unclassifiable.		
McKean County	Attainment/Unclassifiable.		
Mercer County	Attainment/Unclassifiable.		
Mifflin County	Attainment/Unclassifiable.		
Montour County	Attainment/Unclassifiable.		
Northumberland County	Attainment/Unclassifiable.		
Potter County	Attainment/Unclassifiable.		
Snyder County	Attainment/Unclassifiable.		
Somerset County	Attainment/Unclassifiable.		
Sullivan County	Attainment/Unclassifiable.		
Susquehanna County	Attainment/Unclassifiable.		
Tioga County	Attainment/Unclassifiable.		
Union County	Attainment/Unclassifiable.		
Venango County	Attainment/Unclassifiable.		
Warren County	Attainment/Unclassifiable.		

PENNSYLVANIA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Washington County	Attainment/Unclassifiable.		
Wayne County	Attainment/Unclassifiable.		
Westmoreland County	Attainment/Unclassifiable.		
Wyoming County	Attainment/Unclassifiable.		

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² This date is January 16, 2018, unless otherwise noted.

* * * * * and Secondary)” following the table **§ 81.340 Rhode Island.**
 ■ 37. Section 81.340 is amended by adding a table titled “Rhode Island—2015 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:
 * * * * *

RHODE ISLAND—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Bristol County	Attainment/Unclassifiable.		
Newport County	Attainment/Unclassifiable.		
Providence County	Attainment/Unclassifiable.		

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² This date is January 16, 2018, unless otherwise noted.

* * * * * and Secondary)” following the table **§ 81.341 South Carolina.**
 ■ 38. Section 81.341 is amended by adding a table titled “South Carolina—2015 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:
 * * * * *

SOUTH CAROLINA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹			Classification	
Designation	Date ²	Type	Date ²	Type
Abbeville County	Attainment/Unclassifiable.		
Aiken County	Attainment/Unclassifiable.		
Allendale County	Attainment/Unclassifiable.		
Anderson County	Attainment/Unclassifiable.		
Bamberg County	Attainment/Unclassifiable.		
Barnwell County	Attainment/Unclassifiable.		
Beaufort County	Attainment/Unclassifiable.		
Berkeley County	Attainment/Unclassifiable.		
Calhoun County	Attainment/Unclassifiable.		
Charleston County	Attainment/Unclassifiable.		
Cherokee County	Attainment/Unclassifiable.		
Chester County	Attainment/Unclassifiable.		
Chesterfield County	Attainment/Unclassifiable.		
Clarendon County	Attainment/Unclassifiable.		
Colleton County	Attainment/Unclassifiable.		
Darlington County	Attainment/Unclassifiable.		
Dillon County	Attainment/Unclassifiable.		
Dorchester County	Attainment/Unclassifiable.		
Edgefield County	Attainment/Unclassifiable.		
Fairfield County	Attainment/Unclassifiable.		
Florence County	Attainment/Unclassifiable.		
Georgetown County	Attainment/Unclassifiable.		
Greenville County	Attainment/Unclassifiable.		
Greenwood County	Attainment/Unclassifiable.		

SOUTH CAROLINA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹			Classification	
Designation	Date ²	Type	Date ²	Type
Hampton County	Attainment/Unclassifiable.		
Horry County	Attainment/Unclassifiable.		
Jasper County	Attainment/Unclassifiable.		
Kershaw County	Attainment/Unclassifiable.		
Lancaster County	Attainment/Unclassifiable.		
Laurens County	Attainment/Unclassifiable.		
Lee County	Attainment/Unclassifiable.		
Lexington County	Attainment/Unclassifiable.		
McCormick County	Attainment/Unclassifiable.		
Marion County	Attainment/Unclassifiable.		
Marlboro County	Attainment/Unclassifiable.		
Newberry County	Attainment/Unclassifiable.		
Oconee County	Attainment/Unclassifiable.		
Orangeburg County	Attainment/Unclassifiable.		
Pickens County	Attainment/Unclassifiable.		
Richland County	Attainment/Unclassifiable.		
Saluda County	Attainment/Unclassifiable.		
Spartanburg County	Attainment/Unclassifiable.		
Sumter County	Attainment/Unclassifiable.		
Union County	Attainment/Unclassifiable.		
Williamsburg County	Attainment/Unclassifiable.		
York County	Attainment/Unclassifiable.		

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² This date is January 16, 2018, unless otherwise noted.

* * * * * and Secondary)’’ following the table § 81.342 South Dakota.
 ■ 39. Section 81.342 is amended by adding a table titled ‘‘South Dakota—2015 8-Hour Ozone NAAQS (Primary and secondary)’’ to read as follows:
 Ozone NAAQS (Primary and secondary)’’

SOUTH DAKOTA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Statewide	Attainment/Unclassifiable.		
Aurora County.				
Beadle County.				
Bennett County.				
Bon Homme County.				
Brookings County.				
Brown County.				
Brule County.				
Buffalo County.				
Campbell County.				
Charles Mix County.				
Clark County.				
Clay County.				
Codington County.				
Corson County.				
Custer County.				
Davison County.				
Day County.				
Deuel County.				
Dewey County.				
Douglas County.				
Edmunds County.				
Fall River County.				
Faulk County.				
Grant County.				
Gregory County.				
Haakon County.				
Hamlin County.				

SOUTH DAKOTA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Hand County. Hanson County. Harding County. Hughes County. Hutchinson County. Hyde County. Jackson County. Jerauld County. Jones County. Kingsbury County. Lake County. Lawrence County. Lincoln County. Lyman County. McCook County. McPherson County. Marshall County. Meade County. Mellette County. Miner County. Minnehaha County. Moody County. Oglala Lakota County. Pennington County. Perkins County. Potter County. Roberts County. Sanborn County. Spink County. Stanley County. Sully County. Todd County. Tripp County. Turner County. Union County. Walworth County. Yankton County. Ziebach County.				

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
² This date is January 16, 2018, unless otherwise noted.

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 ■ 40. Section 81.343 is amended by adding a table titled “Tennessee—2015 8-Hour Ozone NAAQS (Primary and Secondary)” following the table titled “Tennessee—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:
 § 81.343 Tennessee.
 * * * * *

TENNESSEE—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Anderson County	Attainment/Unclassifiable.		
Bedford County	Attainment/Unclassifiable.		
Benton County	Attainment/Unclassifiable.		
Bledsoe County	Attainment/Unclassifiable.		
Blount County	Attainment/Unclassifiable.		
Bradley County	Attainment/Unclassifiable.		
Campbell County	Attainment/Unclassifiable.		
Cannon County	Attainment/Unclassifiable.		
Carroll County	Attainment/Unclassifiable.		
Carter County	Attainment/Unclassifiable.		
Cheatham County	Attainment/Unclassifiable.		

TENNESSEE—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Chester County	Attainment/Unclassifiable.		
Claiborne County	Attainment/Unclassifiable.		
Clay County	Attainment/Unclassifiable.		
Cocke County	Attainment/Unclassifiable.		
Coffee County	Attainment/Unclassifiable.		
Crockett County	Attainment/Unclassifiable.		
Cumberland County	Attainment/Unclassifiable.		
Davidson County	Attainment/Unclassifiable.		
Decatur County	Attainment/Unclassifiable.		
DeKalb County	Attainment/Unclassifiable.		
Dickson County	Attainment/Unclassifiable.		
Dyer County	Attainment/Unclassifiable.		
Fayette County	Attainment/Unclassifiable.		
Fentress County	Attainment/Unclassifiable.		
Franklin County	Attainment/Unclassifiable.		
Gibson County	Attainment/Unclassifiable.		
Giles County	Attainment/Unclassifiable.		
Grainger County	Attainment/Unclassifiable.		
Greene County	Attainment/Unclassifiable.		
Grundy County	Attainment/Unclassifiable.		
Hamblen County	Attainment/Unclassifiable.		
Hamilton County	Attainment/Unclassifiable.		
Hancock County	Attainment/Unclassifiable.		
Hardeman County	Attainment/Unclassifiable.		
Hardin County	Attainment/Unclassifiable.		
Hawkins County	Attainment/Unclassifiable.		
Haywood County	Attainment/Unclassifiable.		
Henderson County	Attainment/Unclassifiable.		
Henry County	Attainment/Unclassifiable.		
Hickman County	Attainment/Unclassifiable.		
Houston County	Attainment/Unclassifiable.		
Humphreys County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Jefferson County	Attainment/Unclassifiable.		
Johnson County	Attainment/Unclassifiable.		
Knox County	Attainment/Unclassifiable.		
Lake County	Attainment/Unclassifiable.		
Lauderdale County	Attainment/Unclassifiable.		
Lawrence County	Attainment/Unclassifiable.		
Lewis County	Attainment/Unclassifiable.		
Lincoln County	Attainment/Unclassifiable.		
Loudon County	Attainment/Unclassifiable.		
McMinn County	Attainment/Unclassifiable.		
McNairy County	Attainment/Unclassifiable.		
Macon County	Attainment/Unclassifiable.		
Madison County	Attainment/Unclassifiable.		
Marion County	Attainment/Unclassifiable.		
Marshall County	Attainment/Unclassifiable.		
Mauri County	Attainment/Unclassifiable.		
Meigs County	Attainment/Unclassifiable.		
Monroe County	Attainment/Unclassifiable.		
Montgomery County	Attainment/Unclassifiable.		
Moore County	Attainment/Unclassifiable.		
Morgan County	Attainment/Unclassifiable.		
Obion County	Attainment/Unclassifiable.		
Overton County	Attainment/Unclassifiable.		
Perry County	Attainment/Unclassifiable.		
Pickett County	Attainment/Unclassifiable.		
Polk County	Attainment/Unclassifiable.		
Putnam County	Attainment/Unclassifiable.		
Rhea County	Attainment/Unclassifiable.		
Roane County	Attainment/Unclassifiable.		
Robertson County	Attainment/Unclassifiable.		
Rutherford County	Attainment/Unclassifiable.		
Scott County	Attainment/Unclassifiable.		
Sequatchie County	Attainment/Unclassifiable.		
Sevier County	Attainment/Unclassifiable.		
Shelby County	Attainment/Unclassifiable.		
Smith County	Attainment/Unclassifiable.		

TENNESSEE—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Stewart County	Attainment/Unclassifiable.		
Sullivan County	Attainment/Unclassifiable.		
Sumner County	Attainment/Unclassifiable.		
Tipton County	Attainment/Unclassifiable.		
Trousdale County	Attainment/Unclassifiable.		
Unicoi County	Attainment/Unclassifiable.		
Union County	Attainment/Unclassifiable.		
Van Buren County	Attainment/Unclassifiable.		
Warren County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		
Wayne County	Attainment/Unclassifiable.		
Weakley County	Attainment/Unclassifiable.		
White County	Attainment/Unclassifiable.		
Williamson County	Attainment/Unclassifiable.		
Wilson County	Attainment/Unclassifiable.		

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² This date is January 16, 2018, unless otherwise noted.

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■ 41. Section 81.344 is amended by adding a table titled “Texas—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Texas—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.344 Texas.

* * * * *

TEXAS—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Anderson County	Attainment/Unclassifiable.		
Andrews County	Attainment/Unclassifiable.		
Angelina County	Attainment/Unclassifiable.		
Aransas County	Attainment/Unclassifiable.		
Archer County	Attainment/Unclassifiable.		
Armstrong County	Attainment/Unclassifiable.		
Bailey County	Attainment/Unclassifiable.		
Bastrop County	Attainment/Unclassifiable.		
Baylor County	Attainment/Unclassifiable.		
Bee County	Attainment/Unclassifiable.		
Bell County	Attainment/Unclassifiable.		
Blanco County	Attainment/Unclassifiable.		
Borden County	Attainment/Unclassifiable.		
Bowie County	Attainment/Unclassifiable.		
Brazos County	Attainment/Unclassifiable.		
Brewster County	Attainment/Unclassifiable.		
Briscoe County	Attainment/Unclassifiable.		
Brooks County	Attainment/Unclassifiable.		
Brown County	Attainment/Unclassifiable.		
Burleson County	Attainment/Unclassifiable.		
Burnet County	Attainment/Unclassifiable.		
Caldwell County	Attainment/Unclassifiable.		
Calhoun County	Attainment/Unclassifiable.		
Callahan County	Attainment/Unclassifiable.		
Cameron County	Attainment/Unclassifiable.		
Camp County	Attainment/Unclassifiable.		
Carson County	Attainment/Unclassifiable.		
Cass County	Attainment/Unclassifiable.		
Castro County	Attainment/Unclassifiable.		
Cherokee County	Attainment/Unclassifiable.		
Childress County	Attainment/Unclassifiable.		
Clay County	Attainment/Unclassifiable.		
Cochran County	Attainment/Unclassifiable.		
Coke County	Attainment/Unclassifiable.		
Coleman County	Attainment/Unclassifiable.		

TEXAS—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Collingsworth County	Attainment/Unclassifiable.		
Colorado County	Attainment/Unclassifiable.		
Comanche County	Attainment/Unclassifiable.		
Concho County	Attainment/Unclassifiable.		
Coryell County	Attainment/Unclassifiable.		
Cottle County	Attainment/Unclassifiable.		
Crane County	Attainment/Unclassifiable.		
Crockett County	Attainment/Unclassifiable.		
Crosby County	Attainment/Unclassifiable.		
Culberson County	Attainment/Unclassifiable.		
Dallam County	Attainment/Unclassifiable.		
Dawson County	Attainment/Unclassifiable.		
Deaf Smith County	Attainment/Unclassifiable.		
Delta County	Attainment/Unclassifiable.		
DeWitt County	Attainment/Unclassifiable.		
Dickens County	Attainment/Unclassifiable.		
Dimmit County	Attainment/Unclassifiable.		
Donley County	Attainment/Unclassifiable.		
Duval County	Attainment/Unclassifiable.		
Eastland County	Attainment/Unclassifiable.		
Ector County	Attainment/Unclassifiable.		
Edwards County	Attainment/Unclassifiable.		
Erath County	Attainment/Unclassifiable.		
Falls County	Attainment/Unclassifiable.		
Fayette County	Attainment/Unclassifiable.		
Fisher County	Attainment/Unclassifiable.		
Floyd County	Attainment/Unclassifiable.		
Foard County	Attainment/Unclassifiable.		
Franklin County	Attainment/Unclassifiable.		
Freestone County	Attainment/Unclassifiable.		
Frio County	Attainment/Unclassifiable.		
Gaines County	Attainment/Unclassifiable.		
Garza County	Attainment/Unclassifiable.		
Gillespie County	Attainment/Unclassifiable.		
Glasscock County	Attainment/Unclassifiable.		
Goliad County	Attainment/Unclassifiable.		
Gonzales County	Attainment/Unclassifiable.		
Gray County	Attainment/Unclassifiable.		
Gregg County	Attainment/Unclassifiable.		
Hale County	Attainment/Unclassifiable.		
Hall County	Attainment/Unclassifiable.		
Hamilton County	Attainment/Unclassifiable.		
Hansford County	Attainment/Unclassifiable.		
Hardeman County	Attainment/Unclassifiable.		
Hardin County	Attainment/Unclassifiable.		
Harrison County	Attainment/Unclassifiable.		
Hartley County	Attainment/Unclassifiable.		
Haskell County	Attainment/Unclassifiable.		
Hays County	Attainment/Unclassifiable.		
Hemphill County	Attainment/Unclassifiable.		
Hidalgo County	Attainment/Unclassifiable.		
Hockley County	Attainment/Unclassifiable.		
Houston County	Attainment/Unclassifiable.		
Howard County	Attainment/Unclassifiable.		
Hutchinson County	Attainment/Unclassifiable.		
Irion County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Jasper County	Attainment/Unclassifiable.		
Jeff Davis County	Attainment/Unclassifiable.		
Jefferson County	Attainment/Unclassifiable.		
Jim Hogg County	Attainment/Unclassifiable.		
Jim Wells County	Attainment/Unclassifiable.		
Jones County	Attainment/Unclassifiable.		
Karnes County	Attainment/Unclassifiable.		
Kenedy County	Attainment/Unclassifiable.		
Kent County	Attainment/Unclassifiable.		
Kerr County	Attainment/Unclassifiable.		
Kimble County	Attainment/Unclassifiable.		
King County	Attainment/Unclassifiable.		

TEXAS—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Kinney County	Attainment/Unclassifiable.		
Kleberg County	Attainment/Unclassifiable.		
Knox County	Attainment/Unclassifiable.		
Lamar County	Attainment/Unclassifiable.		
Lamb County	Attainment/Unclassifiable.		
Lampasas County	Attainment/Unclassifiable.		
La Salle County	Attainment/Unclassifiable.		
Lavaca County	Attainment/Unclassifiable.		
Lee County	Attainment/Unclassifiable.		
Leon County	Attainment/Unclassifiable.		
Limestone County	Attainment/Unclassifiable.		
Lipscomb County	Attainment/Unclassifiable.		
Live Oak County	Attainment/Unclassifiable.		
Llano County	Attainment/Unclassifiable.		
Loving County	Attainment/Unclassifiable.		
Lubbock County	Attainment/Unclassifiable.		
Lynn County	Attainment/Unclassifiable.		
McCulloch County	Attainment/Unclassifiable.		
McLennan County	Attainment/Unclassifiable.		
McMullen County	Attainment/Unclassifiable.		
Madison County	Attainment/Unclassifiable.		
Marion County	Attainment/Unclassifiable.		
Martin County	Attainment/Unclassifiable.		
Mason County	Attainment/Unclassifiable.		
Maverick County	Attainment/Unclassifiable.		
Menard County	Attainment/Unclassifiable.		
Midland County	Attainment/Unclassifiable.		
Milam County	Attainment/Unclassifiable.		
Mills County	Attainment/Unclassifiable.		
Mitchell County	Attainment/Unclassifiable.		
Montague County	Attainment/Unclassifiable.		
Moore County	Attainment/Unclassifiable.		
Morris County	Attainment/Unclassifiable.		
Motley County	Attainment/Unclassifiable.		
Nacogdoches County	Attainment/Unclassifiable.		
Newton County	Attainment/Unclassifiable.		
Nolan County	Attainment/Unclassifiable.		
Nueces County	Attainment/Unclassifiable.		
Ochiltree County	Attainment/Unclassifiable.		
Oldham County	Attainment/Unclassifiable.		
Orange County	Attainment/Unclassifiable.		
Panola County	Attainment/Unclassifiable.		
Parmer County	Attainment/Unclassifiable.		
Pecos County	Attainment/Unclassifiable.		
Polk County	Attainment/Unclassifiable.		
Potter County	Attainment/Unclassifiable.		
Presidio County	Attainment/Unclassifiable.		
Rains County	Attainment/Unclassifiable.		
Randall County	Attainment/Unclassifiable.		
Reagan County	Attainment/Unclassifiable.		
Real County	Attainment/Unclassifiable.		
Red River County	Attainment/Unclassifiable.		
Reeves County	Attainment/Unclassifiable.		
Refugio County	Attainment/Unclassifiable.		
Roberts County	Attainment/Unclassifiable.		
Robertson County	Attainment/Unclassifiable.		
Runnels County	Attainment/Unclassifiable.		
Rusk County	Attainment/Unclassifiable.		
Sabine County	Attainment/Unclassifiable.		
San Augustine County	Attainment/Unclassifiable.		
San Patricio County	Attainment/Unclassifiable.		
San Saba County	Attainment/Unclassifiable.		
Schleicher County	Attainment/Unclassifiable.		
Scurry County	Attainment/Unclassifiable.		
Shackelford County	Attainment/Unclassifiable.		
Shelby County	Attainment/Unclassifiable.		
Sherman County	Attainment/Unclassifiable.		
Smith County	Attainment/Unclassifiable.		
Starr County	Attainment/Unclassifiable.		

TEXAS—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Stephens County	Attainment/Unclassifiable.		
Sterling County	Attainment/Unclassifiable.		
Stonewall County	Attainment/Unclassifiable.		
Sutton County	Attainment/Unclassifiable.		
Swisher County	Attainment/Unclassifiable.		
Taylor County	Attainment/Unclassifiable.		
Terrell County	Attainment/Unclassifiable.		
Terry County	Attainment/Unclassifiable.		
Throckmorton County	Attainment/Unclassifiable.		
Titus County	Attainment/Unclassifiable.		
Tom Green County	Attainment/Unclassifiable.		
Travis County	Attainment/Unclassifiable.		
Tyler County	Attainment/Unclassifiable.		
Upshur County	Attainment/Unclassifiable.		
Upton County	Attainment/Unclassifiable.		
Uvalde County	Attainment/Unclassifiable.		
Val Verde County	Attainment/Unclassifiable.		
Van Zandt County	Attainment/Unclassifiable.		
Victoria County	Attainment/Unclassifiable.		
Ward County	Attainment/Unclassifiable.		
Webb County	Attainment/Unclassifiable.		
Wheeler County	Attainment/Unclassifiable.		
Wichita County	Attainment/Unclassifiable.		
Wilbarger County	Attainment/Unclassifiable.		
Willacy County	Attainment/Unclassifiable.		
Williamson County	Attainment/Unclassifiable.		
Winkler County	Attainment/Unclassifiable.		
Wood County	Attainment/Unclassifiable.		
Yoakum County	Attainment/Unclassifiable.		
Young County	Attainment/Unclassifiable.		
Zapata County	Attainment/Unclassifiable.		
Zavala County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

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■ 42. Section 81.345 is amended by adding a table titled “Utah—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Utah—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.345 Utah.

* * * * *

UTAH—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Beaver County	Attainment/Unclassifiable.		
Emery County	Attainment/Unclassifiable.		
Garfield County	Attainment/Unclassifiable.		
Iron County	Attainment/Unclassifiable.		
Kane County	Attainment/Unclassifiable.		
Millard County	Attainment/Unclassifiable.		
Piute County	Attainment/Unclassifiable.		
San Juan County	Attainment/Unclassifiable.		
Sevier County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		
Wayne County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

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 ■ 43. Section 81.346 is amended by adding a table titled “Vermont—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled § 81.346 Vermont.
 “Vermont—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:
 * * * * *

VERMONT—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
AQCR 159 Champlain Valley Interstate Addison County. Chittenden County. Franklin County. Grand Isle County. Rutland County.	Attainment/Unclassifiable.		
* AQCR 222 Vermont Intrastate Bennington County. Caledonia County. Essex County. Lamoille County. Orange County. Orleans County. Washington County. Windham County. Windsor County.	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

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 ■ 44. Section 81.347 is amended by adding a table titled “Virginia—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled § 81.347 Virginia.
 “Virginia—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:
 * * * * *

VIRGINIA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Accomack County	Attainment/Unclassifiable.		
Albemarle County	Attainment/Unclassifiable.		
Alleghany County	Attainment/Unclassifiable.		
Amelia County	Attainment/Unclassifiable.		
Amherst County	Attainment/Unclassifiable.		
Appomattox County	Attainment/Unclassifiable.		
Augusta County	Attainment/Unclassifiable.		
Bath County	Attainment/Unclassifiable.		
Bedford County	Attainment/Unclassifiable.		
Bland County	Attainment/Unclassifiable.		
Botetourt County	Attainment/Unclassifiable.		
Brunswick County	Attainment/Unclassifiable.		
Buchanan County	Attainment/Unclassifiable.		
Buckingham County	Attainment/Unclassifiable.		
Campbell County	Attainment/Unclassifiable.		
Caroline County	Attainment/Unclassifiable.		
Carroll County	Attainment/Unclassifiable.		
Charles City County	Attainment/Unclassifiable.		
Charlotte County	Attainment/Unclassifiable.		
Chesterfield County	Attainment/Unclassifiable.		
Craig County	Attainment/Unclassifiable.		
Cumberland County	Attainment/Unclassifiable.		
Dickenson County	Attainment/Unclassifiable.		
Dinwiddie County	Attainment/Unclassifiable.		
Essex County	Attainment/Unclassifiable.		
Floyd County	Attainment/Unclassifiable.		
Fluvanna County	Attainment/Unclassifiable.		
Franklin County	Attainment/Unclassifiable.		

VIRGINIA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Giles County	Attainment/Unclassifiable.		
Gloucester County	Attainment/Unclassifiable.		
Goochland County	Attainment/Unclassifiable.		
Grayson County	Attainment/Unclassifiable.		
Greene County	Attainment/Unclassifiable.		
Greensville County	Attainment/Unclassifiable.		
Halifax County	Attainment/Unclassifiable.		
Hanover County	Attainment/Unclassifiable.		
Henrico County	Attainment/Unclassifiable.		
Henry County	Attainment/Unclassifiable.		
Highland County	Attainment/Unclassifiable.		
Isle of Wight County	Attainment/Unclassifiable.		
James City County	Attainment/Unclassifiable.		
King and Queen County	Attainment/Unclassifiable.		
King George County	Attainment/Unclassifiable.		
King William County	Attainment/Unclassifiable.		
Lancaster County	Attainment/Unclassifiable.		
Lee County	Attainment/Unclassifiable.		
Louisa County	Attainment/Unclassifiable.		
Lunenburg County	Attainment/Unclassifiable.		
Madison County	Attainment/Unclassifiable.		
Mathews County	Attainment/Unclassifiable.		
Mecklenburg County	Attainment/Unclassifiable.		
Middlesex County	Attainment/Unclassifiable.		
Montgomery County	Attainment/Unclassifiable.		
Nelson County	Attainment/Unclassifiable.		
New Kent County	Attainment/Unclassifiable.		
Northampton County	Attainment/Unclassifiable.		
Northumberland County	Attainment/Unclassifiable.		
Nottoway County	Attainment/Unclassifiable.		
Orange County	Attainment/Unclassifiable.		
Page County	Attainment/Unclassifiable.		
Patrick County	Attainment/Unclassifiable.		
Pittsylvania County	Attainment/Unclassifiable.		
Powhatan County	Attainment/Unclassifiable.		
Prince Edward County	Attainment/Unclassifiable.		
Prince George County	Attainment/Unclassifiable.		
Pulaski County	Attainment/Unclassifiable.		
Richmond County	Attainment/Unclassifiable.		
Roanoke County	Attainment/Unclassifiable.		
Rockbridge County	Attainment/Unclassifiable.		
Rockingham County	Attainment/Unclassifiable.		
Russell County	Attainment/Unclassifiable.		
Scott County	Attainment/Unclassifiable.		
Shenandoah County	Attainment/Unclassifiable.		
Smyth County	Attainment/Unclassifiable.		
Southampton County	Attainment/Unclassifiable.		
Surry County	Attainment/Unclassifiable.		
Sussex County	Attainment/Unclassifiable.		
Tazewell County	Attainment/Unclassifiable.		
Washington County	Attainment/Unclassifiable.		
Westmoreland County	Attainment/Unclassifiable.		
Wise County	Attainment/Unclassifiable.		
Wythe County	Attainment/Unclassifiable.		
York County	Attainment/Unclassifiable.		
Bristol City	Attainment/Unclassifiable.		
Buena Vista City	Attainment/Unclassifiable.		
Charlottesville City	Attainment/Unclassifiable.		
Chesapeake City	Attainment/Unclassifiable.		
Colonial Heights City	Attainment/Unclassifiable.		
Covington City	Attainment/Unclassifiable.		
Danville City	Attainment/Unclassifiable.		
Emporia City	Attainment/Unclassifiable.		
Franklin City	Attainment/Unclassifiable.		
Galax City	Attainment/Unclassifiable.		
Hampton City	Attainment/Unclassifiable.		
Harrisonburg City	Attainment/Unclassifiable.		
Hopewell City	Attainment/Unclassifiable.		
Lexington City	Attainment/Unclassifiable.		

VIRGINIA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Lynchburg City	Attainment/Unclassifiable.		
Martinsville City	Attainment/Unclassifiable.		
Newport News City	Attainment/Unclassifiable.		
Norfolk City	Attainment/Unclassifiable.		
Norton City	Attainment/Unclassifiable.		
Petersburg City	Attainment/Unclassifiable.		
Poquoson City	Attainment/Unclassifiable.		
Portsmouth City	Attainment/Unclassifiable.		
Radford City	Attainment/Unclassifiable.		
Richmond City	Attainment/Unclassifiable.		
Roanoke City	Attainment/Unclassifiable.		
Salem City	Attainment/Unclassifiable.		
Staunton City	Attainment/Unclassifiable.		
Suffolk City	Attainment/Unclassifiable.		
Virginia Beach City	Attainment/Unclassifiable.		
Waynesboro City	Attainment/Unclassifiable.		
Williamsburg City	Attainment/Unclassifiable.		

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² This date is January 16, 2018, unless otherwise noted.

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■ 45. Section 81.348 is amended by adding a table titled “Washington—2015 8-Hour Ozone NAAQS (Primary

and Secondary)” following the table titled “Washington—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.348 Washington.

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WASHINGTON—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Tri-Cities Area, WA	Unclassifiable.		
Benton County.				
Franklin County.				
Walla Walla County.				
Adams County	Attainment/Unclassifiable.		
Asotin County	Attainment/Unclassifiable.		
Chelan County	Attainment/Unclassifiable.		
Clallam County	Attainment/Unclassifiable.		
Columbia County	Attainment/Unclassifiable.		
Douglas County	Attainment/Unclassifiable.		
Ferry County	Attainment/Unclassifiable.		
Garfield County	Attainment/Unclassifiable.		
Grant County	Attainment/Unclassifiable.		
Grays Harbor County	Attainment/Unclassifiable.		
Island County	Attainment/Unclassifiable.		
Jefferson County	Attainment/Unclassifiable.		
King County	Attainment/Unclassifiable.		
Kitsap County	Attainment/Unclassifiable.		
Kittitas County	Attainment/Unclassifiable.		
Klickitat County	Attainment/Unclassifiable.		
Lewis County	Attainment/Unclassifiable.		
Lincoln County	Attainment/Unclassifiable.		
Mason County	Attainment/Unclassifiable.		
Okanogan County	Attainment/Unclassifiable.		
Pacific County	Attainment/Unclassifiable.		
Pend Oreille County	Attainment/Unclassifiable.		
Pierce County	Attainment/Unclassifiable.		
San Juan County	Attainment/Unclassifiable.		
Skagit County	Attainment/Unclassifiable.		
Snohomish County	Attainment/Unclassifiable.		
Spokane County	Attainment/Unclassifiable.		
Stevens County	Attainment/Unclassifiable.		
Thurston County	Attainment/Unclassifiable.		

WASHINGTON—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Wahkiakum County	Attainment/Unclassifiable.		
Whatcom County	Attainment/Unclassifiable.		
Whitman County	Attainment/Unclassifiable.		
Yakima County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

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■ 46. Section 81.349 is amended by adding a table titled “West Virginia—2015 8-Hour Ozone NAAQS (Primary

and Secondary)” following the table titled “West Virginia—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.349 West Virginia.

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WEST VIRGINIA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Barbour County	Attainment/Unclassifiable.		
Boone County	Attainment/Unclassifiable.		
Braxton County	Attainment/Unclassifiable.		
Brooke County	Attainment/Unclassifiable.		
Cabell County	Attainment/Unclassifiable.		
Calhoun County	Attainment/Unclassifiable.		
Clay County	Attainment/Unclassifiable.		
Doddridge County	Attainment/Unclassifiable.		
Fayette County	Attainment/Unclassifiable.		
Gilmer County	Attainment/Unclassifiable.		
Grant County	Attainment/Unclassifiable.		
Greenbrier County	Attainment/Unclassifiable.		
Hancock County	Attainment/Unclassifiable.		
Hardy County	Attainment/Unclassifiable.		
Harrison County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Kanawha County	Attainment/Unclassifiable.		
Lewis County	Attainment/Unclassifiable.		
Lincoln County	Attainment/Unclassifiable.		
Logan County	Attainment/Unclassifiable.		
McDowell County	Attainment/Unclassifiable.		
Marion County	Attainment/Unclassifiable.		
Marshall County	Attainment/Unclassifiable.		
Mason County	Attainment/Unclassifiable.		
Mercer County	Attainment/Unclassifiable.		
Mineral County	Attainment/Unclassifiable.		
Mingo County	Attainment/Unclassifiable.		
Monongalia County	Attainment/Unclassifiable.		
Monroe County	Attainment/Unclassifiable.		
Morgan County	Attainment/Unclassifiable.		
Nicholas County	Attainment/Unclassifiable.		
Ohio County	Attainment/Unclassifiable.		
Pendleton County	Attainment/Unclassifiable.		
Pleasants County	Attainment/Unclassifiable.		
Pocahontas County	Attainment/Unclassifiable.		
Preston County	Attainment/Unclassifiable.		
Putnam County	Attainment/Unclassifiable.		
Raleigh County	Attainment/Unclassifiable.		
Randolph County	Attainment/Unclassifiable.		
Ritchie County	Attainment/Unclassifiable.		
Roane County	Attainment/Unclassifiable.		
Summers County	Attainment/Unclassifiable.		
Taylor County	Attainment/Unclassifiable.		
Tucker County	Attainment/Unclassifiable.		
Tyler County	Attainment/Unclassifiable.		
Upshur County	Attainment/Unclassifiable.		

WEST VIRGINIA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Wayne County	Attainment/Unclassifiable.		
Webster County	Attainment/Unclassifiable.		
Wetzel County	Attainment/Unclassifiable.		
Wirt County	Attainment/Unclassifiable.		
Wood County	Attainment/Unclassifiable.		
Wyoming County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

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■ 47. Section 81.350 is amended by adding a table titled “Wisconsin—2015 8-Hour Ozone NAAQS (Primary and Secondary)” following the table titled “Wisconsin—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

WISCONSIN—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Adams County	Attainment/Unclassifiable.		
Ashland County	Attainment/Unclassifiable.		
Barron County	Attainment/Unclassifiable.		
Bayfield County	Attainment/Unclassifiable.		
Buffalo County	Attainment/Unclassifiable.		
Burnett County	Attainment/Unclassifiable.		
Chippewa County	Attainment/Unclassifiable.		
Clark County	Attainment/Unclassifiable.		
Columbia County	Attainment/Unclassifiable.		
Crawford County	Attainment/Unclassifiable.		
Dane County	Attainment/Unclassifiable.		
Douglas County	Attainment/Unclassifiable.		
Dunn County	Attainment/Unclassifiable.		
Eau Claire County	Attainment/Unclassifiable.		
Florence County	Attainment/Unclassifiable.		
Forest County	Attainment/Unclassifiable.		
Grant County	Attainment/Unclassifiable.		
Green County	Attainment/Unclassifiable.		
Green Lake County	Attainment/Unclassifiable.		
Iowa County	Attainment/Unclassifiable.		
Iron County	Attainment/Unclassifiable.		
Jackson County	Attainment/Unclassifiable.		
Juneau County	Attainment/Unclassifiable.		
La Crosse County	Attainment/Unclassifiable.		
Lafayette County	Attainment/Unclassifiable.		
Langlade County	Attainment/Unclassifiable.		
Lincoln County	Attainment/Unclassifiable.		
Marathon County	Attainment/Unclassifiable.		
Marinette County	Attainment/Unclassifiable.		
Marquette County	Attainment/Unclassifiable.		
Menominee County	Attainment/Unclassifiable.		
Monroe County	Attainment/Unclassifiable.		
Oconto County	Attainment/Unclassifiable.		
Oneida County	Attainment/Unclassifiable.		
Outagamie County	Attainment/Unclassifiable.		
Pepin County	Attainment/Unclassifiable.		
Pierce County	Attainment/Unclassifiable.		
Polk County	Attainment/Unclassifiable.		
Portage County	Attainment/Unclassifiable.		
Price County	Attainment/Unclassifiable.		
Richland County	Attainment/Unclassifiable.		
Rock County	Attainment/Unclassifiable.		
Rusk County	Attainment/Unclassifiable.		
St. Croix County	Attainment/Unclassifiable.		

WISCONSIN—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Sauk County	Attainment/Unclassifiable.		
Sawyer County	Attainment/Unclassifiable.		
Shawano County	Attainment/Unclassifiable.		
Taylor County	Attainment/Unclassifiable.		
Trempealeau County	Attainment/Unclassifiable.		
Vernon County	Attainment/Unclassifiable.		
Vilas County	Attainment/Unclassifiable.		
Washburn County	Attainment/Unclassifiable.		
Waupaca County	Attainment/Unclassifiable.		
Waushara County	Attainment/Unclassifiable.		
Winnebago County	Attainment/Unclassifiable.		
Wood County	Attainment/Unclassifiable.		
Forest County Potawatomi Community Indian Tribe ³	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

³ Includes Indian country of the tribe listed in this table located in Forest County, Wisconsin. Information pertaining to areas of Indian country in this table is intended for Clean Air Act planning purposes only and is not an EPA determination of Indian country status or any Indian country boundary. EPA lacks the authority to establish Indian country land status, and is making no determination of Indian country boundaries, in this table.

* * * * *

■ 48. Section 81.351 is amended by adding a table titled “Wyoming—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Wyoming—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.351 Wyoming.

* * * * *

WYOMING—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Big Horn County	Attainment/Unclassifiable.		
Campbell County	Attainment/Unclassifiable.		
Carbon County	Attainment/Unclassifiable.		
Converse County	Attainment/Unclassifiable.		
Crook County	Attainment/Unclassifiable.		
Fremont County	Attainment/Unclassifiable.		
Goshen County	Attainment/Unclassifiable.		
Hot Springs County	Attainment/Unclassifiable.		
Johnson County	Attainment/Unclassifiable.		
Lincoln County	Attainment/Unclassifiable.		
Natrona County	Attainment/Unclassifiable.		
Niobrara County	Attainment/Unclassifiable.		
Park County	Attainment/Unclassifiable.		
Platte County	Attainment/Unclassifiable.		
Sheridan County	Attainment/Unclassifiable.		
Sublette County	Attainment/Unclassifiable.		
Sweetwater County	Attainment/Unclassifiable.		
Teton County	Attainment/Unclassifiable.		
Uinta County	Attainment/Unclassifiable.		
Washakie County	Attainment/Unclassifiable.		
Weston County	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

* * * * *

■ 49. Section 81.352 is amended by adding a table titled “American Samoa—2015 8-Hour Ozone NAAQS

(Primary and Secondary)” following the table titled “American Samoa—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.352 American Samoa.

* * * * *

AMERICAN SAMOA—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Territory Wide and Any Areas of Indian Country: American Samoa	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

* * * * *
 ■ 50. Section 81.353 is amended by adding a table titled “Guam—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Guam—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.353 Guam.
 * * * * *

GUAM—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Territory Wide	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

* * * * *
 ■ 51. Section 81.354 is amended by adding a table titled “Northern Mariana Islands—2015 8-Hour Ozone NAAQS

(Primary and Secondary)” following the table titled “Northern Mariana Islands—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.354 Northern Mariana Islands.
 * * * * *

NORTHERN MARIANA ISLANDS—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
Northern Mariana Islands	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

* * * * *
 ■ 52. Section 81.355 is amended by adding a table titled “Puerto Rico—2015 8-Hour Ozone NAAQS (Primary and

Secondary)” following the table titled “Puerto Rico—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

§ 81.355 Puerto Rico.
 * * * * *

PUERTO RICO—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
All of Puerto Rico AQCR 244	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

* * * * *
 and Secondary)” following the table § 81.356 Virgin Islands.
 ■ 53. Section 81.356 is amended by titled “Virgin Islands—2008 8-Hour * * * * *
 adding a table titled “Virgin Islands— Ozone NAAQS (Primary and
 2015 8-Hour Ozone NAAQS (Primary secondary)” to read as follows:

VIRGIN ISLANDS—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date	Type
All of Virgin Islands AQCR 247	Attainment/Unclassifiable.		

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

² This date is January 16, 2018, unless otherwise noted.

* * * * *
 [FR Doc. 2017-24640 Filed 11-15-17; 8:45 am]
 BILLING CODE 6560-50-P

Attachment 3



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGIONAL ADMINISTRATOR
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DEC 20 2017

The Honorable Bruce V. Rauner
Governor
207 State Capitol Building
Springfield, Illinois 62706

Dear Governor Rauner:

Thank you for your recommendation dated September 30, 2016, on air quality designations for the 2015 National Ambient Air Quality Standards (NAAQS) for ozone throughout Illinois. I appreciate the information that Illinois shared with the U.S. Environmental Protection Agency as we move forward to improve ozone air quality. This letter is to notify you of the EPA's preliminary response to Illinois' recommendations and to inform you of our approach for completing designations for the revised ozone standards.

On October 1, 2015, the EPA lowered the primary 8-hour ozone standard from 0.075 parts per million (ppm) to 0.070 ppm to provide increased protection of public health. The EPA revised the secondary 8-hour ozone standard, making it identical to the primary standard, to protect against welfare effects, including impacts on sensitive vegetation and forested ecosystems. Working closely with the states and tribes, the EPA is implementing the standards using a common sense approach that improves air quality and minimizes the burden on state and local governments. As part of this routine process, the EPA is working with the states to identify areas in the country that meet the standards and those that need to take steps to reduce ozone pollution.

As a first step in implementing the 2015 ozone standards, the EPA asked states to submit their designation recommendations, including appropriate area boundaries, by October 1, 2016. In a first round of designations published on November 16, 2017, consistent with states' recommendations, the EPA designated as Attainment/Unclassifiable most of the country.

As required by the Clean Air Act, the EPA will designate an area as Nonattainment if there are certified, quality-assured air quality monitoring data showing a violation of the 2015 ozone standards or if the EPA makes a determination that the area is contributing to a violation of the standards in a nearby area. Areas designated Attainment/Unclassifiable are not measuring or contributing to a violation of the standards.

After considering Illinois' September 30, 2016, ozone designation recommendations, which were based on 2013-2015 air quality data, as well as other relevant technical information (i.e. 2014-2016 air quality data), the EPA intends to designate the areas listed in Enclosure 1 as Nonattainment or Unclassifiable and to designate all other areas in the state not previously designated in November 2017 as Attainment/Unclassifiable. The Technical Support Documents

for the Illinois areas, which can be viewed on the EPA's ozone designations website at <https://www.epa.gov/ozone-designations/2015-ozone-standards-state-recommendations>, provide a detailed analysis to support our preliminary decisions for the areas of the state not previously designated. In order for the EPA to consider more current (i.e., 2015-2017) air quality data in the final designation decisions for any area, Illinois must submit certified, quality-assured 2015-2017 air quality monitoring data for the area to the EPA by February 28, 2018.

The EPA will continue to work with state officials regarding the appropriate boundaries for the areas in Illinois. If Illinois has additional information that you would like the EPA to consider, please submit it to us by February 28, 2018. Please submit additional information by sending to the EPA's public docket for these designations, EPA-HQ-OAR-2017-0548, located at www.regulations.gov, and sending a copy to EPA Region 5. The EPA will also make its preliminary designation decisions and supporting documentation available to the general public for review and comment. We will be announcing a 30-day public comment period shortly in the *Federal Register*. After considering additional information that we receive, the EPA plans to promulgate final ozone designations in the spring of 2018.

The EPA is committed to working with the states and tribes to reduce ozone air pollution. We look forward to a continued dialogue with you and your staff as we work together to implement the 2015 ozone standards. Should you have any questions regarding this matter, please do not hesitate to contact me at 312-886-1499 or have a member of your staff contact Edward Nam, Director, Air and Radiation Division, EPA Region 5, at 312-353-2192.

Sincerely,



Robert A. Kaplan
Acting Regional Administrator

Enclosure

Cc Alec Messina, Director, Illinois Environmental Protection Agency

Julie Armitage, Director, Bureau of Air, Illinois Environmental Protection Agency

Enclosure 1

Illinois' Recommended Nonattainment Areas and the EPA's Intended Designated Nonattainment Areas for the 2015 Ozone NAAQS

Area	Illinois' Recommended Nonattainment Counties	EPA's Intended Nonattainment Counties
Chicago, IL-IN-WI	Cook DuPage Grundy (partial) Kane Kendall (partial) Lake McHenry Will	Illinois Cook DuPage Grundy (partial) Kane Kendall (partial) Lake McHenry Will Indiana Lake Porter Wisconsin Kenosha (partial)
St. Louis, MO-IL	Madison Monroe St. Clair	Illinois Madison Monroe St. Clair Missouri Franklin Jefferson City of St. Louis St. Louis County St. Charles

Attachment 4

In addition, EPA is providing advanced notice of proposed approval of Missouri's 2008 base year emissions inventory in accordance with section 172(c)(3) of the CAA. If finalized, approval of the redesignation request would change the official designation of St. Louis area for the 1997 annual PM_{2.5} NAAQS, found at 40 CFR part 81, from nonattainment to attainment.

Dated: December 15, 2017.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 2018-00037 Filed 1-4-18; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-HQ-OAR-2017-0548; FRL-9972-84-OAR]

EPA Responses to Certain State Designation Recommendations for the 2015 Ozone National Ambient Air Quality Standards: Notice of Availability and Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of availability and public comment period.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has posted on our public electronic docket and internet website responses to certain state and tribal area designation recommendations for the 2015 Ozone National Ambient Air Quality Standards (NAAQS) (2015 Ozone NAAQS). These responses

include our intended designations for the affected areas. The EPA invites the public to review and provide input on our intended designations during the comment period specified in the **DATES** section. The EPA sent its responses directly to the states and tribes on or about December 20, 2017. The EPA intends to make final designation determinations for the areas of the country addressed by these responses no earlier than 120 days from the date the EPA notified states and tribes of the agency's intended designations.

DATES: Comments must be received on or before February 5, 2018. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the comment period.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2017-0548, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [regulations.gov](http://www.regulations.gov). The EPA may publish any comment received to our public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, Cloud, or other file sharing system). For additional submission methods, the full

EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: For general questions concerning this action, please contact Denise Scott, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, C539-01, Research Triangle Park, NC 27709, telephone (919) 541-4280, email at scott.denise@epa.gov. The EPA contacts listed at the beginning of the **SUPPLEMENTARY INFORMATION** can answer questions regarding areas in a particular EPA Regional office.

SUPPLEMENTARY INFORMATION:

Regional Office Contacts:

- Region I—Richard Burkhart (617) 918-1664
- Region II—Omar Hammad (212) 637-3347
- Region III—Maria Pino (215) 814-2181
- Region IV—Jane Spann (404) 562-9029
- Region V—Kathleen D'Agostino (312) 886-1767
- Region VI—Carrie Paige (214) 665-6521
- Region VII—Lachala Kemp (913) 551-7214
- Region VIII—Chris Dresser (303) 312-6385
- Region IX—Laura Lawrence (415) 972-3407
- Region X—Karl Pepple (206) 553-1778

The public may inspect the recommendations from the states and tribes, our recent letters notifying the affected states and tribes of our intended designations, and area-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 Programs Branch, EPA Region II, 290 Broadway, 25th Floor, New York, NY 10007-1866, (212) 637-4014.	New Jersey, New York, Puerto Rico, and Virgin Islands.
Cynthia H. Stahl, Acting Associate Director, Office of Air Program Planning, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2187, (215) 814-2180.	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, 12th 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.
Alan Shar, Acting Chief, Air Planning Section, EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202, (214) 665-6691.	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
Mike Jay, Chief, Air Programs Branch, EPA Region VII, 11201 Renner Blvd., Lenexa, KS 66129, (913) 551-7460.	Iowa, Kansas, Missouri, and Nebraska.
Monica Morales, Air Program Director, EPA Region VIII, 1595 Wynkoop Street, Denver, CO 80202-1129, (303) 312-6936.	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, Northern Mariana Islands, Navajo Nation, and the Hopi Tribe.

Regional offices	States
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.

The information can also be reviewed online at <https://www.epa.gov/ozone-designations> and in the public docket for these ozone designations at <https://www.regulations.gov> under Docket ID No. EPA-HQ-OAR-2017-0548.

I. What is the purpose of this action?

The purpose of this notice of availability is to solicit input from interested parties other than states and tribes on the EPA's recent responses to the state and tribal designation recommendations for the 2015 Ozone NAAQS. These responses, and their supporting technical analyses, can be found at <https://www.epa.gov/ozone-designations> and in the public docket for these ozone designations at <https://www.regulations.gov> under Docket ID No. EPA-HQ-OAR-2017-0548.

On October 1, 2015, the EPA Administrator signed a notice of final rulemaking that revised the primary and secondary ozone NAAQS (80 FR 65292; October 26, 2015). The EPA established the revised primary and secondary ozone NAAQS at 0.070 parts per million (ppm). The 2015 Ozone NAAQS are met at an ambient air quality monitoring site when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration (*i.e.*, the design value) is less than or equal to 0.070 ppm. The revised standards will improve public health protection, particularly for at-risk groups including children, older adults, people of all ages who have lung diseases such as asthma, and people who are active outdoors, especially outdoor workers. They also will improve the health of trees, plants and ecosystems.

After the EPA promulgates a new or revised NAAQS, the Clean Air Act (CAA) requires the EPA to designate all areas of the country as either "Nonattainment," "Attainment," or "Unclassifiable," for that NAAQS. The process for these initial designations is contained in CAA section 107(d)(1) (42 U.S.C. 7407). After promulgation of a new or revised NAAQS, each governor or tribal leader has an opportunity to recommend air quality designations, including the appropriate boundaries for Nonattainment areas, to the EPA. The EPA considers these recommendations as part of its duty to promulgate the formal area designations and boundaries for the new or revised NAAQS. By no later than 120 days prior

to promulgating designations, the EPA is required to notify states, territories, and tribes, as appropriate, of any intended modifications to an area designation or boundary recommendation that the EPA deems necessary.

On November 6, 2017, the EPA established initial air quality designations for most areas in the United States, including most areas of Indian country, for the 2015 primary and secondary ozone NAAQS 82 FR 54232, November 16, 2017). In that action, the EPA designated 2,646 counties, including Indian country located in those counties, two separate areas of Indian country, and five territories as Attainment/Unclassifiable and three counties as Unclassifiable.

This current action provides the EPA's intended designation of all remaining undesignated areas. On or about December 20, 2017, consistent with section 107(d)(1)(b)(ii) of the CAA, the EPA notified affected states and tribes of the remaining recommended designations.¹ While the EPA is in agreement with the recommendations for most areas, the EPA indicated that in some instances it intended to modify a state or tribal recommends. States and tribes have the opportunity during the 120-day process to provide additional information for the EPA to consider in making the final designation decisions. We stand ready to assist and hope to resolve any differences regarding the proper designation for all remaining areas within the 120-day process provided by the CAA.

Once designations take effect, they govern what subsequent regulatory actions states, tribes, and the EPA must take in order to improve or preserve air quality in each area.

II. Instructions for Submitting Public Comments and Internet Website for Rulemaking Information

A. Invitation To Comment

The purpose of this notice is to solicit input from interested parties, other than the states and tribes to which we have sent notification letters, on the EPA's recent responses to the designation

¹ Note that the EPA completed the area designations for the U.S. territories of American Samoa, Guam, Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands in the November 6, 2017, designations action.

recommendations for the 2015 Ozone NAAQS. These responses, and their supporting technical analyses, can be found at <https://www.epa.gov/ozone-designations> and in the public docket for these ozone designations at Docket ID No. EPA-HQ-OAR-2017-0548. The EPA Docket Office can be contacted at (202) 566-1744, and is located at EPA Docket Center Reading Room, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The hours of operation at the EPA Docket Center are 8:30 a.m.–4:30 p.m., Monday–Friday.

CAA section 107(d)(1) provides a process for air quality designations that involves recommendations by states, territories, and tribes to the EPA and responses from the EPA to those parties, prior to the EPA promulgating final area designations and boundaries. The EPA is not required under the CAA section 107(d)(1) to seek public comment during the designation process, but we are electing to do so for these areas with respect to the 2015 Ozone NAAQS in order to gather additional information for the EPA to consider before making final designations for the specific areas addressed in the EPA's recent letters to states and tribes. The EPA invites public input on our responses to states and tribes regarding these areas during the 30-day comment period provided in this notice. In order to receive full consideration, input from the public must be submitted to the docket by February 5, 2018. This notice and opportunity for public comment does not affect any rights or obligations of any state, or tribe, or of the EPA, which might otherwise exist pursuant to the CAA section 107(d).

Please refer to the **ADDRESSES** section in this document for specific instructions on submitting comments and locating relevant public documents.

In establishing Nonattainment area boundaries for a particular area, CAA section 107(d)(1)(A) requires the EPA to include within the boundaries both the area that does not meet the standard and any nearby area contributing to ambient air quality in the area that does not meet the NAAQS. We are particularly interested in receiving comments, supported by relevant information addressing the section 107(d)(1)(A) criteria, if you believe that a specific geographic area should not be categorized as Nonattainment, or if you

believe that an area the EPA had indicated that it intends to designate as Attainment/Unclassifiable or Unclassifiable should in fact be categorized Nonattainment based on the presence of a violating monitor in the area or based on contribution to ambient air quality in a nearby areas. Please be as specific as possible in supporting your views.

- Describe any assumptions and provide any technical information and/or data that you used.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible.
- Provide your input by the comment period deadline identified.

The EPA intends to complete designations for all of the areas addressed in the responses to the states and tribes no later than April 30, 2018. This would complete the designation process for the 2015 Ozone NAAQS.

B. What should I consider as I prepare my comments for the EPA?

1. *Submitting CBI.* Do not submit CBI information to the EPA through [https://](https://www.regulations.gov)

www.regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI in a disk or CD ROM that you mail to the EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: Tiffany Purifoy, OAQPS CBI Officer, U.S. EPA, Office of Air Quality Planning and Standards, Mail Code C404-02, Research Triangle Park, NC 27711, telephone (919) 541-0878, email at purifoy.tiffany@epa.gov, Attention Docket ID No. EPA-HQ-OAR-2017-0548.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

C. Where can I find additional information for this rulemaking?

The EPA has also established a website for this rulemaking at <https://www.epa.gov/ozone-designations>. The website includes the state, territorial and tribal recommendations, the EPA's intended area designations, information supporting the EPA's preliminary designation decisions, the EPA's designation guidance for the 2015 Ozone NAAQS as well as the rulemaking actions and other related information that the public may find useful.

Dated: December 21, 2017.

Peter Tsirigotis,
Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2018-00024 Filed 1-4-18; 8:45 am]

BILLING CODE 6560-50-P

Attachment 5



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

December 22, 2017

The Honorable Greg Abbott
Governor of State of Texas
P.O. Box 12428
Austin, Texas 78711

Dear Governor Abbott:

Thank you for your multiple letters addressing air quality designation recommendations for the revised 2015 National Ambient Air Quality Standards (NAAQS) for ozone throughout Texas. I appreciate the information Texas shared with the U.S. Environmental Protection Agency (EPA) as we both move forward to improve ozone air quality. This letter is to notify you of the EPA's response to Texas's area recommendations and to inform you of our approach for completing designations for the revised ozone standards.

On October 1, 2015, the EPA lowered the primary 8-hour ozone standard from 0.075 parts per million (ppm) to 0.070 ppm to provide increased protection of public health. The EPA revised the secondary 8-hour ozone standard, making it identical to the primary standard, to protect against welfare effects, including impacts on sensitive vegetation and forested ecosystems. Working closely with the states and tribes, the EPA is implementing the standards using a common sense approach that improves air quality and minimizes the burden on state and local governments. As part of this routine process, the EPA is working with the states to identify areas in the country that meet the 2015 ozone standards and those that need to take steps to reduce ozone pollution to attain the 2015 standards.

As a first step in implementing the 2015 ozone standards, the EPA asked states to submit in the Fall of 2016 their designation recommendations, including appropriate area boundaries. In response to and consistent with the States' recommendations, EPA published an initial round of final designations on November 16, 2017 in the Federal Register. In that action, the EPA designated as Attainment/Unclassifiable most areas of the country, including all but 49 counties in Texas.¹

As required by the Clean Air Act, the EPA will designate an area as Nonattainment if there are certified, quality-assured air quality monitoring data showing a violation of the 2015 ozone standards or if the EPA makes a determination that the area is contributing to a violation of the

¹ In addition, the EPA designated three counties in the state of Washington as Unclassifiable, consistent with the State of Washington's recommendation. Further, consistent with EPA's "Policy for Establishing Separate Air Quality Designations for Areas of Indian Country" (December 20, 2011), the EPA designated two areas of Indian country as separate Attainment/Unclassifiable areas.

standards in a nearby area. Areas designated Attainment/Unclassifiable are not measuring or contributing to a violation of the standards.

After considering Texas’s multiple ozone designation recommendations, which were based on 2014-2016 air quality data, as well as other relevant technical information, the EPA intends to designate the areas listed in the table below as Nonattainment, and to designate all other areas in the State where the agency has received complete information, except as indicated by the State in letters to the EPA, and that were not previously designated in November 2017 as Attainment/Unclassifiable. The Technical Support Document for Texas, which provides a detailed analysis to support our proposed designation decisions is posted on the EPA’s Ozone Designations web site at <https://www.epa.gov/ozone-designations>.

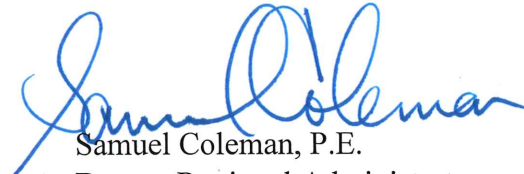
Area	EPA’s Intended Nonattainment Counties
Dallas/Fort Worth, TX	Collin County Dallas County Denton County Ellis County Johnson County Kaufman County Parker County Rockwall County Tarrant County Wise County
Houston-Galveston-Brazoria, TX	Brazoria County Chambers County Fort Bend County Galveston County Harris County Liberty County Montgomery County Waller County

In order for the EPA to consider more current (i.e., 2015-2017) air quality data in the final designation decisions for Texas, certified, quality-assured 2015-2017 air quality monitoring data for the area must be submitted to the EPA by February 28, 2018.

If Texas has additional information that it would like the EPA to consider, please submit it to us by February 28, 2018. Please submit additional information by sending it to EPA’s public docket for these designations, EPA-HQ-OAR-2017-0548, located at www.regulations.gov, and by sending a copy to EPA Region 6, pursuant to the instructions detailed in the forthcoming *Federal Register* action. The EPA will also make its proposed designation decisions and supporting documentation available to the general public for review and comment as part of the Federal Register action. We will be announcing a 30-day public comment period shortly in the *Federal Register*. After considering any additional information we may receive, and responding to significant comments, the EPA plans to promulgate final ozone designations in Spring of 2018.

The EPA is committed to working with the states and tribes to reduce ozone air pollution. We look forward to a continued dialogue with you and your staff as we work together to implement the 2015 ozone standards. Should you have any questions regarding this matter, please do not hesitate to contact me at 214-665-3110 or have a member of your staff contact Carrie Paige at 214-665-6521 or paige.carrie@epa.gov.

Sincerely,



Samuel Coleman, P.E.
Deputy Regional Administrator

cc: Richard A. Hyde, P.E., Executive Director, Texas Commission on Environmental Quality
Steve Hagle, P.E., Deputy Director, Office of Air,
Texas Commission on Environmental Quality

Attachment 6

Intended Designations for Deferred Counties and County Equivalents Not Addressed in the Technical Analyses

Region	State	County/Equivalent	Designation
1	MA	Berkshire	Attainment/Unclassifiable
1	MA	Hampden	Attainment/Unclassifiable
1	MA	Worcester	Attainment/Unclassifiable
1	RI	Washington	Attainment/Unclassifiable
1	RI	Kent	Attainment/Unclassifiable
3	DE	Sussex	Attainment/Unclassifiable
3	MD	Kent	Attainment/Unclassifiable
3	PA	Schuylkill	Attainment/Unclassifiable
4	FL	Baker	Attainment/Unclassifiable
4	FL	Clay	Attainment/Unclassifiable
4	FL	Nassau	Attainment/Unclassifiable
4	FL	Putnam	Attainment/Unclassifiable
4	FL	St. Johns	Attainment/Unclassifiable
4	GA	Camden	Attainment/Unclassifiable
5	IL	Marion	Attainment/Unclassifiable
5	IN	Elkhart	Attainment/Unclassifiable
5	IN	Franklin	Attainment/Unclassifiable
5	IN	Marshall	Attainment/Unclassifiable
5	IN	St. Joseph	Attainment/Unclassifiable
5	MI	Barry	Attainment/Unclassifiable
5	MI	Cass	Attainment/Unclassifiable
5	MI	Ionia	Attainment/Unclassifiable
5	MI	Kalamazoo	Attainment/Unclassifiable
5	MI	Kent	Attainment/Unclassifiable
5	MI	Mecosta	Attainment/Unclassifiable
5	MI	Montcalm	Attainment/Unclassifiable
5	MI	Newaygo	Attainment/Unclassifiable
5	MI	Oceana	Attainment/Unclassifiable
5	MI	Ottawa	Attainment/Unclassifiable
5	MI	Sanilac	Attainment/Unclassifiable
5	MI	Van Buren	Attainment/Unclassifiable
5	OH	Greene	Attainment/Unclassifiable
5	OH	Montgomery	Attainment/Unclassifiable
5	OH	Preble	Attainment/Unclassifiable
5	OH	Trumbull	Attainment/Unclassifiable
5	WI	Brown	Attainment/Unclassifiable
5	WI	Calumet	Attainment/Unclassifiable

Region	State	County/Equivalent	Designation
5	WI	Fond du Lac	Attainment/Unclassifiable
5	WI	Kewaunee	Attainment/Unclassifiable
6	LA	Assumption	Attainment/Unclassifiable
6	LA	St. James	Attainment/Unclassifiable
6	NM	Luna	Attainment/Unclassifiable
6	NM	Otero	Attainment/Unclassifiable
6	NM	Sierra	Attainment/Unclassifiable
6	TX	Bosque	Attainment/Unclassifiable
6	TX	Fannin	Attainment/Unclassifiable
6	TX	Grimes	Attainment/Unclassifiable
6	TX	Hill	Attainment/Unclassifiable
6	TX	Jack	Attainment/Unclassifiable
6	TX	San Jacinto	Attainment/Unclassifiable
7	MO	St. Francois	Attainment/Unclassifiable
8	CO	El Paso	Attainment/Unclassifiable
8	CO	Garfield	Attainment/Unclassifiable
8	CO	Grand	Attainment/Unclassifiable
8	CO	Jackson	Attainment/Unclassifiable
8	CO	Moffat	Attainment/Unclassifiable
8	CO	Teller	Attainment/Unclassifiable
8	UT	Cache	Attainment/Unclassifiable
8	UT	Carbon	Attainment/Unclassifiable
8	UT	Daggett	Attainment/Unclassifiable
8	UT	Grand	Attainment/Unclassifiable
8	UT	Rich	Attainment/Unclassifiable
8	UT	Sanpete	Attainment/Unclassifiable
8	WY	Albany	Attainment/Unclassifiable
8	WY	Laramie	Attainment/Unclassifiable
9	AZ	Coconino	Attainment/Unclassifiable
9	AZ	Graham	Attainment/Unclassifiable
9	AZ	La Paz	Attainment/Unclassifiable
9	AZ	Mohave	Attainment/Unclassifiable
9	AZ	Navajo	Attainment/Unclassifiable
9	AZ	Pima	Attainment/Unclassifiable
9	AZ	Yavapai	Attainment/Unclassifiable
9	CA	Alpine	Attainment/Unclassifiable
9	CA	Colusa	Attainment/Unclassifiable
9	CA	Glenn	Attainment/Unclassifiable
9	CA	Inyo	Attainment/Unclassifiable
9	CA	Mendocino	Attainment/Unclassifiable

Region	State	County/Equivalent	Designation
9	CA	Mono	Attainment/Unclassifiable
9	CA	Monterey	Attainment/Unclassifiable
9	CA	Plumas	Attainment/Unclassifiable
9	CA	Santa Barbara	Attainment/Unclassifiable
9	CA	Shasta	Attainment/Unclassifiable
9	CA	Sierra	Attainment/Unclassifiable
9	CA	Trinity	Attainment/Unclassifiable
9	NV	Carson City	Attainment/Unclassifiable
9	NV	Douglas	Attainment/Unclassifiable
9	NV	Lincoln	Attainment/Unclassifiable
9	NV	Nye	Attainment/Unclassifiable
9	NV	Washoe	Attainment/Unclassifiable
10	AK	Anchorage	Attainment/Unclassifiable
10	OR	Benton	Attainment/Unclassifiable
10	OR	Clackamas	Attainment/Unclassifiable
10	OR	Columbia	Attainment/Unclassifiable
10	OR	Linn	Attainment/Unclassifiable
10	OR	Multnomah	Attainment/Unclassifiable
10	OR	Polk	Attainment/Unclassifiable
10	OR	Washington	Attainment/Unclassifiable
10	OR	Yamhill	Attainment/Unclassifiable
10	WA	Clark	Attainment/Unclassifiable
10	WA	Cowlitz	Attainment/Unclassifiable
10	WA	Skamania	Attainment/Unclassifiable

Attachment 7



GOVERNOR GREG ABBOTT

September 30, 2016

Ms. Janet G. McCabe
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20760

Mr. Ron Curry
Regional Administrator
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Re: State Designation Recommendations for the 2015 Ozone National Ambient Air Quality Standards (NAAQS)

Dear Ms. McCabe and Mr. Curry:

The State of Texas and the Texas Commission on Environmental Quality (TCEQ) — along with a nationwide coalition of other states, energy companies and interest groups — filed a petition for review of the U.S. Environmental Protection Agency's (EPA) ozone rule. *See Murray Energy Corp. et al. v. EPA*, D.C. Cir. Dkt. No. 15-1385 (consolidated with 15-1392, 15-1490, 15-1491 & 15-1494). The ozone rule should be vacated because it is unlawful as both a constitutional and statutory matter. However, because the ozone rule has not yet been stayed or vacated, I am enclosing the 2015 ozone NAAQS designation recommendations, with supporting information from Dr. Bryan W. Shaw, Chairman of TCEQ, on behalf of the State of Texas.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Greg Abbott".

Greg Abbott
Governor

GA:rvk

Attachments
(Page 135 of Total)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



RESOLUTION CONCERNING THE 2015 EIGHT-HOUR OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS DESIGNATIONS

Docket No. 2016-0399-SIP
Project No. 2016-009-SIP-NR

WHEREAS, the Texas Commission on Environmental Quality (Commission) met on August 3, 2016 to discuss and consider designation recommendations for the 2015 eight-hour ozone National Ambient Air Quality Standards (NAAQS) for submittal to the governor for his consideration and transmittal to the United States Environmental Protection Agency (EPA); and

WHEREAS, the Commission finds that the EPA revised the eight-hour standard for ozone on October 1, 2015, setting both the primary and secondary standards at 0.070 parts per million, or 70 parts per billion (ppb); and

WHEREAS, the Commission acknowledges that the Federal Clean Air Act (FCAA), § 107(d), requires the EPA, after the promulgation of a new or revised NAAQS, to designate areas as attainment, nonattainment, or unclassifiable; and

WHEREAS, the Commission acknowledges that the FCAA, § 107(d), also establishes a process for each governor to provide recommendations to the EPA regarding appropriate designations for the 2015 ozone NAAQS for their state, including appropriate geographic boundaries; and

WHEREAS, the Commission acknowledges that the EPA has specified a deadline for the submittal of recommended designations for the 2015 ozone NAAQS of October 1, 2016; and

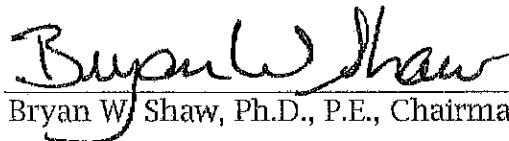
WHEREAS, the Commission acknowledges that the EPA recommends that states identify areas not in compliance with the revised NAAQS using the most recent three years of air quality data, preferably data from calendar years 2013 through 2015, stored in the EPA Air Quality System (AQS) from Federal Reference Method and Federal Equivalent Method monitors that are sited and operated in accordance with 40 Code of Federal Regulations (CFR) Part 58; and

WHEREAS, the Commission finds that based on complete and certified AQS monitoring data from 2013 through 2015, all monitors in Texas with data eligible for comparison to the revised 2015 eight-hour ozone NAAQS were reviewed, and there are areas of the state that should be recommended for designation as nonattainment, in addition to areas that should be recommended for designation as attainment or unclassifiable/attainment, as noted in the attached Exhibit A; and

WHEREAS, the Commission finds that at the time that the EPA makes final designations, AQS monitoring data from 2016 may also be available for the EPA's consideration and that nonattainment area designation recommendations based on 2013 through 2015 monitoring data may be revised to attainment for any counties monitoring attainment based on 2016 data; and

THEREFORE, BE IT RESOLVED, that the Commission hereby requests the governor of Texas to submit a recommendation for the 2015 eight-hour ozone NAAQS to the EPA for consideration consisting of nonattainment designations for all counties in Texas with regulatory ozone monitors measuring over the 2015 ozone NAAQS of 70 ppb as well as areas currently designated as nonattainment for the 2008 ozone standard, attainment designations for all counties in Texas that have regulatory ozone monitors with complete data meeting the 2015 ozone NAAQS that are not currently located in an area designated nonattainment for the 2008 ozone NAAQS, and unclassifiable/attainment designations for all other counties in the state, as detailed in Exhibit A, by the EPA's requested deadline of October 1, 2016.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY


Bryan W. Shaw, Ph.D., P.E., Chairman

August 11, 2016
Date signed

ATTACHMENT A

STATE OF TEXAS
 2015 EIGHT-HOUR OZONE NAAQS DESIGNATION RECOMMENDATION

The following table identifies Texas counties and the designations that the State of Texas is recommending for the 2015 eight-hour ozone NAAQS.

Recommended Designation	Counties
Nonattainment	Bexar Brazoria Chambers Collin Dallas Denton El Paso <i>(with the exception of tribal lands, i.e. Ysleta Del Sur Reservation or Trust Lands)</i> Ellis Fort Bend Galveston Harris Hood Johnson Kaufman Liberty Montgomery Parker Rockwall Tarrant Waller Wise
Attainment	Bell Brewster Cameron Gregg Harrison Hidalgo Hunt Jefferson McLennan Navarro Nueces Orange Randall Smith Travis Victoria Webb
Unclassifiable/Attainment	Remaining 216 counties in the state

ATTACHMENT B

**CERTIFIED 2013 THROUGH 2015 EIGHT-HOUR OZONE DESIGN VALUES
 FOR REGULATORY MONITORS IN THE STATE OF TEXAS**

The Texas Commission on Environmental Quality has calculated the eight-hour ozone design values for Texas counties with regulatory monitors, as presented in the table below, in support of the State's designation recommendation for the 2015 Ozone National Ambient Air Quality Standards (NAAQS). The design values were calculated with certified 2013 through 2015 monitoring data.

Design Values by County for the 2015 Eight-Hour Ozone NAAQS

County	Certified 2013 through 2015 Design Value (parts per billion)
Denton	83
Brazoria	80
Tarrant	80
Harris	79
Bexar	78
Collin	76
Dallas	75
Parker	75
Galveston	73
Hood	73
Johnson	73
Montgomery	73
El Paso	71
Rockwall	70
Bell	69
Ellis	68
Gregg	68
Jefferson	68
Travis	68
Kaufman	67

ATTACHMENT B

County	Certified 2013 through 2015 Design Value (parts per billion)
McLennan	67
Smith	67
Harrison	66
Navarro	66
Orange	66
Randall	66
Nueces	65
Brewster	64
Hunt	64
Victoria	64
Cameron	59
Webb	59
Hidalgo	56

Note: The regulatory CASTNET monitor in Polk County does not have a valid 2013 through 2015 design value as the monitor does not meet data completeness requirements. Incomplete data shows a 2015 design value of 64 parts per billion.

Source: The EPA Air Quality System database (<https://www.epa.gov/aqs>)

Attachment 8



GOVERNOR GREG ABBOTT

September 27, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW, 1101A
Washington, D.C. 20460

Re: **Request of the State of Texas Regarding County-Attainment Designations for the 2015 National Ambient Air Quality Standard for Ozone**

Dear Administrator Pruitt:

On October 1, 2015, the U.S. Environmental Protection Agency (EPA) revised the primary and secondary National Ambient Air Quality Standard (NAAQS) for ozone from 75 parts per billion (ppb) to 70 ppb. The State of Texas, along with numerous other states and private entities, filed a petition for review in the D.C. Circuit, alleging that the ozone rule is unlawful and should be set aside in its entirety. *See Murray Energy Corp. et al. v. EPA*, D.C. Cir. Dkt. No. 15-1385 (consolidated with 15-1392, 15-1490, 15-1491 & 15-1494). Our petition remains pending in the D.C. Circuit, and I reiterate Texas' view that the ozone rule violates the Clean Air Act and the Administrative Procedure Act. Given those legal infirmities, it would be inappropriate to designate any county in Texas as "nonattainment" under the unlawful ozone rule.

Even under the unlawful ozone rule, however, some of Texas' counties can and should be designated as "attainment" now. On September 30, 2016, I provided a list of 17 Texas counties that should be designated as "attainment" even using the unlawfully low 70 ppb standard. That recommendation was based on certified monitoring data for the years 2013–2015. Then on August 23, 2017, the Texas Commission on Environmental Quality (TCEQ) submitted to EPA a revised set of recommendations, based on more recent data. Certified monitoring data for the period of 2014–2016, in conjunction with an exceptional-event demonstration for El Paso, establish that El Paso County and Hood County also are in attainment of the 2015 ozone NAAQS. EPA has no basis for refusing to accept these data at this time. Under Section 107(d)(1)(A) of the Clean Air Act, I therefore urge EPA to designate all 19 of these counties as "attainment" by October 1, 2017.

The Honorable Scott Pruitt

September 27, 2017

Page 2

As to the remainder of Texas' counties, I urge EPA to provide a pathway for designating as many counties as possible as "attainment" at a later date. For areas that previously were designated as "nonattainment" under the 2008 ozone NAAQS, that pathway should include additional guidance for transitioning to the new NAAQS and ameliorating or altogether eliminating the "nonattainment" designation.

For areas that were not previously designated as "nonattainment," such as the San Antonio area in Bexar County, I urge you not to make "nonattainment" designations now and instead to allow the state more time to show that additional data and considerations — such as international transport — warrant an "attainment" or "unclassifiable/attainment" designation. According to a recent study for the Alamo Area Council of Governments, a "nonattainment" designation would cost the San Antonio area alone somewhere between \$3.2 billion and \$36.2 billion. These are staggering costs by any measure, especially given the unlawfulness of the rule under which they would be imposed. In addition, a new nonattainment designation could have serious national security implications for the military and Department of Defense operations in the San Antonio area. I therefore urge EPA not to make any new "nonattainment" designations under the 2015 ozone rule.

Sincerely,



Greg Abbott
Governor

cc: Senator John Cornyn
Senator Ted Cruz
Congressman Will Hurd
Congressman Beto O'Rourke
Congressman Joaquin Castro
Congressman Henry Cuellar
Congressman Lloyd Doggett
Congressman Lamar Smith
Congressman Mike Conaway
Congressman Roger Williams
Sam Coleman, Acting EPA Administrator for Region 6
Bryan W. Shaw, Chairman of TCEQ
Richard Hyde, Executive Director of TCEQ

Attachment 9



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202 – 2733

Office of the Regional Administrator

January 19, 2018

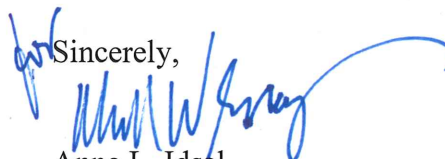
The Honorable Greg Abbott
Governor of Texas
P O Box 12428
Austin, Texas 78711

Dear Governor Abbott:

This letter is to follow-up on the December 22, 2017, letter from then Deputy Regional Administrator Samuel Coleman that responded to Texas's area designation recommendations for the 2015 National Ambient Air Quality Standards (NAAQS) for ozone. In that letter, the Environmental Protection Agency announced its intended area designations for the remaining areas in Texas except the eight counties that comprise the San Antonio metro area.

On September 30, 2016, you submitted recommended designations for areas in Texas for the 2015 ozone NAAQS, including all counties in the San Antonio area. On September 27, 2017, you submitted another letter urging the EPA to allow Texas more time to provide additional information for areas that were not previously designated as nonattainment for the 2008 ozone NAAQS, such as the San Antonio area, to support a different designation. However, it was unclear whether you intended the September 27, 2017, letter to serve as an actual revision to the September 30, 2016, recommended designations for the counties in the San Antonio area. Accordingly, please submit any additional information you would like the EPA to consider in designating the San Antonio area, including any revised designation recommendation, to the EPA by February 28, 2018. We look forward to receiving this additional information and intend to work closely with the Texas Commission on Environmental Quality to determine an appropriate designation for this area. The information may be emailed the EPA's rulemaking docket for the ozone designations, EPA-HQ-OAR-2017-0548, at A-and-R-docket@epa.gov. We request that you also send a copy to EPA Region 6.

Thank you for your attention to and interest in this matter. If you have further questions or concerns, please contact me or your staff may contact Troy Lyons, Associate Administrator for Congressional and Intergovernmental Relations, at lyons.troy@epa.gov or at (202) 564-5200.

Sincerely,

Anne L. Idsal
Regional Administrator

Attachment 10

(Sept. 2015) (highlighting errors in polluters' cost estimates and suggesting lower costs available for complying with standards).

EPA is required to follow the path the Clean Air Act provides for achieving timely attainment. In 1990, Congress saw that a "discretion-filled approach" did not succeed at reducing ozone pollution levels, and so it took a prescriptive approach to avoid "gaming by the States, industry, and others," including EPA. *South Coast*, 472 F.3d at 887, 894-95; H.R. Rep. No. 101-490 pt.1, at 229 (1990), *reprinted in* 2 A Legislative History of the Clean Air Act Amendments of 1990, at 3253 (1993) [hereinafter Legislative History]; *accord, e.g.*, 1 Legislative History 789 (statement of Sen. Mitchell) ("One of the problems that has plagued the Clean Air Act is the 'gaming' that has continued in the form of paper trails starting everywhere and leading to no emission reductions."). EPA's misguided efforts to provide "flexibility" beyond what Congress provided thus flout the law and contribute to delays in pollution reductions that would improve people's health. *Cf., e.g.*, EPA-HQ-OAR-2003-0079-0849 at 14, 26-27, 31-38, 74-80 (giving examples of EPA approaches to ozone implementation that have increased "flexibility" and lessened pollution reductions). EPA must instead hew to Congress's clear, unambiguous requirements for controlling ozone pollution.

Some portions of EPA's proposal represent improvements over past ozone implementation rules. We urge EPA to finalize those positive steps, as well as to maintain the correct prior aspects of those rules. But, again, much of EPA's proposal runs contrary to Congress's goals in amending the Clean Air Act to ensure that specific actions be taken to reduce harmful ozone pollution and that the steps be effective. Those aspects are illegal and irrational and imperil public health.

EPA cannot lawfully or rationally rely on the post-proposal Executive Order 13,771, 82 Fed. Reg. 9339 (Feb. 3, 2017), in this rulemaking, nor can the agency allow that order to influence development of the final rule. As detailed below, Congress laid out specific requirements for implementing ozone standards. An executive order cannot override a statute or limit the authority delegated to the EPA Administrator by Congress. Further, because Congress barred EPA from considering costs of the type at issue in Executive Order 13,771 in setting or revising NAAQS, the Executive Order also cannot have any lawful or rational bearing on EPA's decision about maintaining the 2008 ozone NAAQS: an executive order cannot lawfully direct an agency to consider factors that are impermissible under a statute.

II. REVOCATION OF 2008 NAAQS AND TRANSITION REQUIREMENTS.

A. EPA Should Not Revoke the 2008 NAAQS at All.

EPA is taking comment “on whether to revoke the NAAQS at the current time.” 81 Fed. Reg. 81,276, 81,286/1 (Nov. 17, 2016). Keeping the 2008 NAAQS in place will ensure that the full health protections Congress intended are realized as Congress intended.

By contrast, revocation would be arbitrary. Attaining the 2008 NAAQS remains critical to providing the public health and welfare protections promised by the Act. Yet EPA proposes to revoke the 2008 NAAQS effective at nearly the same time as the moderate area attainment deadline for it. Revoking the 2008 NAAQS would unravel Congress’s specific statutory plan for cleaning the air, contrary to the Supreme Court’s warning. *See Whitman v. Am. Trucking Ass’ns*, 531 U.S. 457, 485 (2001) (holding that Congress intended Subpart 2 to govern implementation of ozone NAAQS “far into the future” and that Congress’s plan for ozone nonattainment areas “was not enacted to be abandoned the next time the EPA reviewed the ozone standard”). Similarly, the D.C. Circuit has already specifically rejected an industry argument that would have allowed EPA to “continually ‘strengthen’ a NAAQS by the smallest margin and avoid ever implementing the time-delayed controls mandated by the [Clean Air Act].” *South Coast Air Quality Mgmt. Dist. v. EPA*, 489 F.3d 1245, 1248 (D.C. Cir. 2007) (on pet. for reh’g of 472 F.3d 882). Nothing in the Act suggests that Congress meant to leave “such a glaring loophole.” *Id.* Yet EPA is illegally and arbitrarily seeking here to develop precisely that absurd result.

Revocation serves no beneficial purpose. EPA fails to explain the specific problems caused by retaining the 2008 (and earlier) NAAQS and or to tailor the solutions to address those specific problems. *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962) (holding that agency must articulate a “rational connection between the facts found and the choice made”). Sweeping claims regarding the need for flexibility or discretion to tailor requirements to individual areas do not provide a reasonable justification. *South Coast*, 472 F.3d at 895 (holding that “EPA’s interpretation of the Act in a manner to maximize its own discretion is unreasonable because the clear intent of Congress in enacting the 1990 Amendments was to the contrary”). Such open-ended, discretionary approaches were tested and failed in the pre-1990 version of the Act, leading Congress to reject them in 1990. *Id.* at 887, 894-95. Nor can EPA claim that the scheme adopted by Congress in the 1990 Amendments is bad or ineffective, because EPA has never allowed that scheme to play out in those areas that today continue to violate the 1-hour and 1997 ozone NAAQS. EPA has refused to apply the backstops that Congress required, instead repeatedly attempting to rewrite the detailed Subpart 2 requirements. *See NRDC*, 643 F.3d at 313-16 (describing history of EPA attempts to avoid Subpart 2 requirements). The agency’s departure from the Act has failed to lead to timely attainment, and it relaxes the

consequences Congress specified for areas that fail to attain timely. EPA must instead accede to Congress's framework for both attaining and maintaining NAAQS.

B. If EPA Revokes the 2008 NAAQS, It Should Use a Modified Option 2.

If EPA insists on revoking the 2008 NAAQS, it should follow Option 2, with modifications to address its illegal and arbitrary aspects. Option 2 allows implementation of Subpart 2 in nonattainment areas to continue to unfold until such areas come into attainment. *See* 81 Fed. Reg. at 81,286/1-87/2. Further, we agree that revocation should not occur until, at the earliest, one year after designations under the 2015 NAAQS, in order to avoid a gap in conformity's coverage in areas designated nonattainment under both the 2008 and the 2015 NAAQS. *See id.* at 81,287/2-3.

The following features of Option 2 are illegal and arbitrary, however, and EPA must not finalize them. First, Option 2 illegally and arbitrarily waives maintenance areas' statutory obligation, under 42 U.S.C. §7505a(b), to prepare a second 10-year maintenance plan 8 years after redesignation. 81 Fed. Reg. at 81,287/1. This can result in the creation of "orphan" maintenance areas—areas that are designated attainment under the 2015 NAAQS but that have maintenance status under earlier NAAQS. Based on EPA's hypothetical nonattainment areas, these areas could include Charlotte-Rock Hill, NC-SC; Knoxville, TN; and Memphis, TN-MS-AR. *See* EPA-HQ-OAR-2016-0202-0037 at 4-5 tbl.1; <https://www3.epa.gov/airquality/greenbook/hmcty.html>; <https://www3.epa.gov/airquality/greenbook/hfmrpt1.html> (under heading "REDESIGNATION TO MAINTENANCE"). This action would deprive such areas of multiple health protections that Congress intended to reach forward well into the future: the statutory obligation to create a second 10-year maintenance plan so that maintenance areas stay in compliance with the NAAQS for 20 years after redesignation, 42 U.S.C. §7505a(b); and, accordingly, the requirement that the conformity control apply to federally supported activities and transportation plans, programs, and projects in areas subject to maintenance planning obligations under §7505a, *id.* §7506(c)(5)(B). *See Whitman*, 531 U.S. at 485-86 (EPA statutory interpretation that would eliminate requirements "reaching...far into the future" is irrational and unlawful).

There is no legal justification for nullifying the §7505a(b) maintenance plan update requirement. EPA offers inconsistent explanations for abrogating the maintenance plan update requirement. Neither has merit. In the regulatory text, EPA would simply eliminate it by fiat. *See* 81 Fed. Reg. at 81,312/1 (proposed to be codified at 40 C.F.R. §51.1305(d)(1)). That fails because, by its terms, the maintenance plan update requirement is triggered by the redesignation of an area from nonattainment to attainment. *See* 42 U.S.C. §7505a(b). Revocation

of a NAAQS after a redesignation has already occurred cannot and does not undo the historical fact that the redesignation occurred.

In the preamble, EPA claims an orphan maintenance area's existing §7505a maintenance plan, in conjunction with a Prevention of Significant Deterioration (PSD) plan, satisfies the maintenance plan update requirement. 81 Fed. Reg. at 81,289/1-2. There is no rational basis for this statement, particularly since the update requirement applies many years in the future—not until 2023 at the earliest. *See* 80 Fed. Reg. 39,970 (July 13, 2015) (redesignating Knoxville). Further, other areas that may become orphan maintenance areas have not even been redesignated yet. EPA has identified no support for the claim that an existing maintenance plan, plus a PSD plan, satisfies the maintenance plan update requirement for all current and future orphan maintenance areas.

Second, Option 2 illegally and arbitrarily waives §7410(a)(1) maintenance planning obligations for the 2015 NAAQS. EPA says orphan maintenance areas' § 7505a maintenance plans, in conjunction with a PSD program, satisfy the §7410(a)(1) requirements. 81 Fed. Reg. at 81,289/1-2. Similarly, for "orphan" nonattainment areas—areas designated attainment under the 2015 NAAQS but nonattainment under earlier NAAQS²—EPA says a PSD plan alone satisfies the §7410(a)(1) requirements. *Id.* at 81,289/3-90/1. For both such orphan areas, this is unlawful because §7410(a)(1)'s plain text requires a plan that provides specifically for maintenance of the 2015 NAAQS, and no such plan exists. Moreover, to the extent that by "maintenance plan" under §7410(a)(1), EPA means the SIP requirements in §7410(a)(2)—which include enforceable emission limitations and other control measures, a program to provide for enforcement of such measures, monitoring requirements, control measures to address interstate transport of pollution, and assurances of adequate resources to implement the SIP—EPA lacks authority to waive states' statutory obligations to submit plans addressing those requirements.

Nor has EPA identified any rational basis for deeming the §7410(a)(1) maintenance plan requirement satisfied by preexisting plans. As explained in the Environmental Petitioners' briefs in the current challenge to the implementation rule for the 2008 NAAQS, individually and collectively, PSD plans for the 2015 standard combined with attainment plans or with §7505a maintenance plans for earlier standards simply do not provide for maintenance of the more

² Under Option 2, orphan nonattainment areas would be initially designated attainment under both the 2015 and 2008 NAAQS, but still designated nonattainment under the 1997. Based on EPA's hypothetical nonattainment areas and its Green Book, such areas include all of Massachusetts except for Martha's Vineyard, and the Albany and Buffalo, NY, areas.

protective 2015 standard. Opening Br. of Environmental Pet'rs 58-61, *South Coast Air Quality Mgmt. Dist. v. EPA*, No. 15-1115 (D.C. Cir. Dec. 8, 2016); Reply Br. of Environmental Pet'rs 28-31, *South Coast*, No. 15-1115 (D.C. Cir. Dec. 8, 2016). The PSD plan protects only against violations of the 2015 NAAQS caused by construction or modification of major stationary sources, which may never occur, and provides no protection against increases in emissions from other sources. Existing §7505a maintenance plans only must address maintenance of the earlier, weaker standards (75 or 84 ppb), and thus provide no assurance of maintenance of the more protective 70 ppb 2015 standard. Similarly, attainment plans for earlier standards—which EPA does not require to exist—only address attainment of the 84 ppb standard and are silent on whether the area has any assurance of remaining in attainment of the 70 ppb 2015 standard. EPA has thus failed to provide any analysis to support its proposed regulatory conclusion.

To the extent that, under Option 2, EPA points to general, unspecified federal controls and upwind emission controls to justify waiving the §7410(a)(1) maintenance plan requirements in orphan nonattainment areas, that does not salvage its proposal. Without any supporting evidence to show how much of a reduction such measures caused in orphan nonattainment areas, EPA is arbitrarily speculating about the connection between these general measures and the specific areas at issue. Meteorological changes, or transient economic factors, can equally result in ozone reductions. *See* EPA-HQ-OAR-2010-0885-0065 at 18.

C. Option 1 Is Arbitrary.

Option 1—full revocation of the 2008 NAAQS one year after designations under the 2015 NAAQS, accompanied by anti-backsliding regulations, 81 Fed. Reg. at 81,286/1-3—is arbitrary, as explained above, in Part II.A.³ EPA has given no rational reason under the Clean Air Act for revoking the NAAQS. Option 1 is particularly arbitrary because EPA waives attainment determinations and many of the statutorily prescribed consequences for failure to timely attain, such as bump-ups under § 7511 and the sanctions and other mandates of §7509. EPA thus places numerous ozone nonattainment areas into an ineffectual loop: areas make halting progress through Subpart 2, slowed by state and EPA delays, but EPA then revokes the NAAQS and resets their attainment clocks, sending them back to the beginning of the bump-up process.

³ As for the timing of revocation under Option 1, as noted above, EPA should not revoke the standard until, at the earliest, one year after designations under the 2015 NAAQS, to avoid a gap in conformity's coverage in areas designated nonattainment under both the 2008 and the 2015 NAAQS. *See id.* at 81,287/2-3.

For example, Dallas is currently classified as moderate under the 2008 NAAQS, and, under EPA's proposal, it may also be classified as moderate under the 2015 NAAQS. <https://www3.epa.gov/airquality/greenbook/hnc.html> (2008 NAAQS); EPA-HQ-OAR-2016-0202-0037 at 4 tbl.1 (hypothetical classifications under 2015 NAAQS). If Dallas fails to attain the 2008 NAAQS by its attainment deadline (July 20, 2018), it must be bumped up to serious, by no later than Jan. 20, 2019. 42 U.S.C. §7511(b)(2). Under Option 1, however, it is very unlikely that EPA would complete the bump-up. *See* 80 Fed. Reg. 8274, 8278/1 (Feb. 17, 2015) (halting reclassification of Dallas area under 1997 NAAQS because of revocation of 1997 NAAQS). In the event that ozone problems persist in Dallas, the earliest the area would be subject to a bump-up with more stringent control requirements would likely be in 2024, assuming EPA makes designations in late 2017. The people in Dallas would thus be left to wait five more years for the relief Congress promised from potentially deadly ozone pollution. Similar scenarios result in other places, like Houston or Greater Connecticut, which are moderate under the 2008 NAAQS but may only be marginal under the 2015. 81 Fed. Reg. 90,207 (Dec. 14, 2016) (bumping up Houston to moderate under 2008 NAAQS); <https://www3.epa.gov/airquality/greenbook/hnc.html> (Greater Connecticut is moderate under 2008 NAAQS); EPA-HQ-OAR-2016-0202-0037 at 4 tbl.1 (hypothetical classifications under 2015 NAAQS). EPA has no basis for hamstringing implementation of ozone NAAQS a third time, particularly when the 2008 NAAQS is still in the relatively early stages of implementation.

EPA itself has offered these same arguments against revocation for other NAAQS. In the implementation rule for the 2012 particulate matter NAAQS, EPA warns that revocation of one of the 1997 fine particulate NAAQS "could delay attainment of that NAAQS and slow progress on attaining the [new, more protective standard] because...areas [still designated nonattainment under the prior standard] would not be subject to all of the planning requirements in [the Act]...after the date of the revocation." 81 Fed. Reg. 58,010, 58,146/2-3 (Aug. 24, 2016). Curtailing escalating control measures "would delay emissions reductions and improvements in air quality," including emission reductions that "serve...toward attaining the [new, more protective standard]." *Id.* at 58,143/3-44/1, 58,146/3; *accord, e.g., id.* at 58,145/2-3.

If EPA arbitrarily proceeds with Option 1, it must address the following issues with its anti-backsliding regulations. First, EPA illegally and arbitrarily seeks to avoid applying anti-

backsliding protections in orphan nonattainment areas.⁴ 81 Fed. Reg. at 81,289/3-90/1. Binding precedent already makes clear that this is illegal. In *South Coast*, the D.C. Circuit rejected as unlawful EPA's attempt to have new source review (NSR) apply in "fewer areas" under the 1997 NAAQS than it did under the 1-hour NAAQS. 472 F.3d at 901; *see also id.* at 900 (where "measure[] is a 'control[,]...withdrawing [it] from a SIP would constitute impermissible backsliding"). Similarly, the D.C. Circuit rejected as unlawful an EPA action that would require the ozone fees control "in only a subset of the 1-hour nonattainment regions—those also in nonattainment of the 8-hour standard." *NRDC*, 643 F.3d at 322. Because the Act expressly provides in §7502(e) that nonattainment areas do not lose protections even when standards are weakened, it is irrational to allow them to shed protections when standards are strengthened.

Nor is EPA's proposal to deprive orphan nonattainment areas of anti-backsliding protections consistent with its approach elsewhere in the rule. For orphan nonattainment areas, EPA proposes to privilege the area's design value in the year of designation over its designation status. Yet in the very same rule, EPA expressly has an area's designation as nonattainment under the 2008 NAAQS determine whether anti-backsliding protections for the 2008 NAAQS attach: areas that are designated as nonattainment under both the 2015 and 2008 NAAQS are subject to anti-backsliding protections. This inconsistency is arbitrary. To serve the statute's precautionary, health-protective purpose, EPA must resolve it in favor of greater public health protection: by applying anti-backsliding protections in orphan nonattainment areas. *See Lead Indus. Ass'n v. EPA*, 647 F.2d 1130, 1155 (D.C. Cir. 1980); *American Lung Ass'n v. EPA*, 134 F.3d 388, 389 (D.C. Cir. 1998); H.R. Rep. No. 95-294, at 49 (1977), *reprinted in* 1977 U.S.C.C.A.N. 1077, 1127 (explaining that the 1977 Clean Air Act Amendments were designed in part to "[t]o emphasize the preventative and precautionary nature of the act, *i.e.*, to ensure that regulatory action can effectively prevent harm before it occurs").

Moreover, under EPA's proposed approach, initial designation as attainment under the 2015 NAAQS would eliminate anti-backsliding protections required under the 2008 NAAQS. EPA cannot lawfully or rationally adopt this approach because an initial attainment designation under the 2015 NAAQS is based solely on a snapshot of air quality, not on a showing that clean air will be maintained. EPA thus would contravene Congress's intent by authorizing air quality "to retreat" after attainment. *South Coast*, 472 F.3d at 900.

⁴ Under Option 1, orphan nonattainment areas would cover areas initially designated attainment under the 2015 NAAQS but still designated nonattainment under the 2008. Such areas may include the Washington, DC, area; portions of Pennsylvania (Allentown, Lancaster, and Reading); and Seaford, Delaware.

Second, orphan nonattainment areas must retain NSR at the highest stringency level that ever applied in the area, as well as conformity, as anti-backsliding protections. Both are plainly controls, as Congress created the conformity requirement to limit ozone pollution from transportation projects and from other federally supported or approved projects, and created NSR to limit and lower ozone pollution from construction or modification of major stationary sources. Under *South Coast*, 472 F.3d at 900-05, they are thus controls that cannot be relaxed. See Opening Br. of Environmental Pet'rs 27-36; Reply Br. of Environmental Pet'rs 11-12. Elimination of conformity is particularly arbitrary and unlawful because Congress intended it to protect against violation of any NAAQS, anywhere, and to apply so long as an area is designated nonattainment, and then for 20 years longer. 42 U.S.C. §7506(c)(1)(B)(i)-(ii), (c)(5)(B).

Third, attainment deadlines—and the statutorily prescribed consequences for failing to meet an attainment deadline—must also be included as anti-backsliding protections. Just as the contingency measures for failure to meet milestones or attainment deadlines and the fees applicable to severe and extreme areas under §7511d are controls, see *South Coast*, 472 F.3d at 902-04, so too are the other statutorily prescribed consequences for failure to timely attain, provided in §§7509(c)-(d), 7511(b)(2), (4). Accordingly, EPA must retain all of them.

Fourth, EPA's proposal for planning requirements applicable to orphan maintenance and orphan nonattainment areas is illegal and arbitrary. EPA's proposal that orphan maintenance areas' §7505a maintenance plan would satisfy their §7410(a)(1) maintenance plan obligations in conjunction with a PSD program and would satisfy their obligation to submit a second 10-year maintenance plan update, 81 Fed Reg. at 81,289/1-2, is unlawful and arbitrary for all the reasons given in the discussion above about illegal and arbitrary aspects of Option 2. Similarly, the proposal that orphan nonattainment areas' PSD plans alone would satisfy their §7410(a)(1) maintenance plan obligations, *id.* at 81,289/3-90/1, is illegal and arbitrary for the reasons given above.

D. EPA's Approach to Satisfaction of Anti-Backsliding Requirements Is Illegal and Arbitrary.

1. Substitute Redesignation.

The "redesignation substitute" is illegal and arbitrary. See 81 Fed. Reg. at 81,291/2. EPA identifies no statutory basis for inventing a redesignation substitute, and there is none. Because Congress specified the route—§7407(d)(3)(E)—for redesignating nonattainment areas to attainment, EPA has no authority to create another method, particularly not a less-demanding method than the one Congress designed. Indeed, the redesignation substitute is weaker than §7407(d)(3)(E)'s criteria requiring full EPA approval of the SIP for the area, full satisfaction of all

requirements applicable to the area under §7410 and Part D of the Act, and approval of a maintenance plan for the area under §7505a, which plan must be enforceable and contain contingency measures. *Id.* at 81,311/3 (proposed to be codified at 40 C.F.R. §51.1305(b)(1)(ii)); 42 U.S.C. §§7407(d)(3)(E)(ii), (iv)-(v), 7505a(d).

EPA cannot justify creating a redesignation substitute on the ground that it otherwise would not be able to relax anti-backsliding protections for areas still designated nonattainment under a revoked standard at the time of its revocation. For one, this is a “problem” EPA created for itself by choosing to revoke pre-2015 NAAQS and by choosing to revoke them even before they are attained. It is unlawful and arbitrary for EPA to rely on consequences of its own unlawful and irrational actions to justify creating the unlawful and arbitrary redesignation substitute to address those consequences.

Moreover, there is no lawful or rational basis under the Act for not maintaining anti-backsliding protections in the circumstances in which the redesignation substitute would operate. The areas that would be able to use the redesignation substitute still have harmful levels of ozone pollution, as, under Option 1, they would be designated nonattainment under the 2015 NAAQS. Nothing in the Act supports allowing weakened controls against ozone pollution in nonattainment areas. To the contrary, under Subpart 2, areas that make some progress toward attaining clean air, but fail to attain timely, are subject to heightened control requirements even though their air is cleaner than it used to be. The redesignation substitute addresses an analogous circumstance: an area has made some progress toward attaining clean air, but still has unhealthy air. The redesignation substitute illegally and irrationally allows weakened protections in this circumstance.

EPA also fails to identify any lawful or rational basis for authorizing backsliding through substitute redesignation. By its terms, §7502(e) extends anti-backsliding protections to “all areas which have not attained...as of the date” of standard revision. An extra-statutory redesignation made after NAAQS revision does not and cannot change that benchmark for anti-backsliding’s attaching. Nor does EPA provide any explanation of how the redesignation substitute comports with §7505a(c)’s requirement that the Act’s requirements for nonattainment areas “shall continue in force and effect” in a nonattainment area until that area is redesignated under the Act’s actual redesignation provision.

The Houston area provides a good example of how irrational and unlawful EPA’s redesignation substitute is. When EPA revoked the 1997 NAAQS, Houston was classified as severe under both the 1997 and the 1-hour NAAQS, but marginal under the 2008 NAAQS. 80 Fed. Reg. 12,278, 12,311 app.B (Mar. 6, 2015). EPA subsequently approved substitute redesignations for Houston under the 1997 and 1-hour NAAQS, thus relaxing the emission

thresholds for triggering the Act's NSR requirements and the NSR offset ratio. 81 Fed. Reg. 78,691, 78,691/3-92/1 (Nov. 8, 2016); 80 Fed. Reg. 63,429 (Oct. 20, 2015). As a result, some stationary sources that previously would have been subject to NSR can now undertake construction projects that increase their emissions of ozone-forming pollution that previously would have triggered NSR without being subject to NSR. Ozone pollution in the area can then increase—even to violate the 1997 or 1-hour NAAQS⁵—even though Houston has not attained the 2008 NAAQS and was just bumped up to moderate because of its failure to timely attain. 81 Fed. Reg. 90,207 (Dec. 14, 2016). And sources that are still subject to NSR need not offset their increased emissions by as much as was previously required, thus slowing progress toward attainment relative to previous controls. This outcome is illegal and arbitrary, yet it is precisely what the redesignation substitute allows.

2. Full Redesignation Under the 2015 NAAQS.

Relying on *Greenbaum v. EPA*, 370 F.3d 527 (6th Cir. 2004), EPA's proposal would illegally allow an area that is redesignated to attainment under the 2015 NAAQS to entirely remove NSR from its SIP. See 81 Fed. Reg. at 81,291/1 & n.41. *Greenbaum* is wrongly decided and conflicts with governing D.C. Circuit precedent. *South Coast* holds that "an attaining area was allowed to shift controls from active enforcement to the contingency plan that would be automatically triggered should air quality again deteriorate." 472 F.3d at 900 (citing 42 U.S.C. §7505a). The Act prohibits redesignation from nonattainment to attainment unless EPA has approved the SIP for the area, and the area has met all applicable requirements under §7410 and Part D—requirements that explicitly include NSR. 42 U.S.C. §§7410(a)(2)(C), 7502(c)(5), 7503. Further, as *South Coast* notes, the redesignated area must have a maintenance plan with "contingency measures" that require—should violations recur—the state to implement all measures that were contained in the SIP before redesignation, which under the Act must include NSR, with all its attendant requirements. *Id.* § 7505a(d); see *id.* §§7502(c)(5), 7503.

Separately, EPA must expressly state that redesignation under the 2015 NAAQS does not satisfy anti-backsliding requirements under the 1-hour NAAQS. In the ongoing litigation about the implementation rule for the 2008 NAAQS and revocation of the 1997 NAAQS, EPA properly sought, and the Court granted, vacatur of provisions that made designation or

⁵ The most recent ozone design value report gives the Houston area's 1-hour design value as 0.120 ppm, with 1 average estimated exceedance. https://www.epa.gov/sites/production/files/2016-07/ozone_designvalues_20132015_final_07_29_16.xlsx, tbl.1c.

redesignation as attainment under the 2008 NAAQS lift anti-backsliding requirements under the 1-hour NAAQS. Respondents' Unopposed Mot. for Voluntary Remand with Vacatur of Specific Portions of the Rulemaking at Issue, *South Coast Air Quality Mgmt. Dist. v. EPA*, No. 15-1115 (D.C. Cir. July 21, 2016); Order, *South Coast Air Quality Mgmt. Dist.*, No. 15-1115 (D.C. Cir. Aug. 29, 2016); Amending Order, *South Coast Air Quality Mgmt. Dist.*, No. 15-1115 (D.C. Cir. Oct. 17, 2016). Designation or redesignation as attainment under the 2015 NAAQS cannot clear anti-backsliding requirements under the 1-hour NAAQS either. See, e.g., *NRDC*, 643 F.3d at 322. EPA must make this point clear in the rule.

E. Title V.

EPA proposes to retain its approach from the implementation rule for the 2008 NAAQS for how Title V permitting works under anti-backsliding, where major source thresholds for Title V purposes depend on the most stringent classification that applies under the 2015 NAAQS and anti-backsliding. 81 Fed. Reg. at 81,291/3-92/2. This approach is consistent with past precedent and compelled by the Act's anti-backsliding requirements and by court precedent.

South Coast compels the approach. There, the Court found that EPA could not eliminate control measures pertaining to a prior, revoked NAAQS and still comply with the anti-backsliding provisions of the Act. EPA correctly proposes to comply with *South Coast* by determining permitting obligations under NSR with reference to an area's highest nonattainment classification. The agency must again take the same approach for Title V.

As EPA has explained, "one of the underlying purposes of title V is to assure compliance with the pollution control requirements applicable to a source," including those applied pursuant to NSR. 80 Fed. Reg. at 12,307/2. Since Title V permits collect all these control requirements in one document, there is no reason for the agency to depart from *South Coast* and treat Title V permitting classifications differently than, for example, NSR or reasonably available control technology ("RACT") permitting. As EPA and states have recognized, departing from a consistent approach would not only create unnecessary complexity, but it would also depart from the purposes of Title V itself. See *id.* at 12,307/2-3; see also 81 Fed. Reg. at 81,292/1-2.

The Title V requirements of the Clean Air Act were added in 1990, and required all states to meet minimum operating permit requirements that serve to implement many of the stationary source requirements of the Act. In making all of a source's permit requirements available in one document, not only have the Title V provisions simplified enforcement actions and compliance assurance (through monitoring and reporting, for example), but they have also facilitated public comment and review of permits. The importance of these functions cannot be

overstated from a procedural standpoint, but they also serve important substantive ends. As such, Title V permits serve as independently enforceable compliance assurance mechanisms that constrain emissions by sources and accordingly must be seen as control measures subject to anti-backsliding requirements under the reasoning of *South Coast*.

The *South Coast* Court specifically affirmed EPA's interpretation that "if Congress intended areas to remain subject to the same level of control where a NAAQS was relaxed, they also intended that such controls not be weakened where the NAAQS is made more stringent." 472 F.3d at 900. The Act evinces a "strict distaste for backsliding." *Id.* at 903. This highly protective hurdle led the Court to categorically reject EPA's attempts to eliminate controls in *South Coast*. The Court first determined that NSR constituted a control measure. The Court considered highly relevant the fact that EPA "nowhere claim[ed] that if NSR were not present, there would be no effect on ozone levels." *Id.* at 901. The court therefore concluded that NSR was a control for purposes of the anti-backsliding provisions of the Act. *Id.* Because of the important enforcement and public participation functions Title V serves, it is highly improbable that if Title V were not present "there would be no effect on ozone levels." Title V permits enable states, citizens, and industry to determine whether the permittees are complying with the Clean Air Act. In the absence of such a program, it would be more difficult to make such a determination. This would likely mean delays in enforcement actions, and citizens who are less informed about the quality of the air they breathe, all while ozone pollution levels remained elevated. Title V thus is also a control that must be retained under anti-backsliding, as EPA proposes to do.

III. IMPLEMENTATION OF 2015 NAAQS.

A. Application of Subpart 2.

EPA correctly proposes to have Subpart 2 govern implementation of the 2015 NAAQS for all nonattainment areas. 81 Fed. Reg. at 81,279/3. With its detailed and comprehensive framework, Subpart 2 is the legally appropriate approach to drive implementation of ozone NAAQS. Subpart 1 failed to achieve attainment, and EPA is correct not to propose resurrecting it.

B. SIP Submission and Attainment Deadlines.

EPA illegally and arbitrarily proposes to have deadlines for SIP submittals and the outer attainment date run from the "effective date" of the nonattainment designation (and simultaneous classification), as it did in the 2008 implementation rule, rather than from the

actual date of designation/classification. *See* 81 Fed. Reg. at 81,278/3, 81,285/1-86/1. All the submission obligations at issue originally ran from the 1990 Amendments' date of enactment. On that date, the 1990 Amendments designated and classified ozone nonattainment areas "by operation of law," thus legally linking the time of enactment and classification. 42 U.S.C. §7511(a)(1), (b)(1). Congress made classifications—and the obligations that flow from classifications—effective immediately upon the date they were done. SIP submittal deadlines and outer attainment dates run from that date.⁶ EPA has no authority to extend the periods allowed under the statute for submitting SIPs and coming into attainment through the artifice of a delayed effective date. *See NRDC*, 777 F.3d at 465-67.

C. EPA Must Apply the Clean Air Act's Reasonably Available Control Technology and Reasonably Available Control Measures Requirements to All Nonattainment Areas, Including Those Areas Classified as Marginal.

EPA proposes to retain its existing reasonably available control technology ("RACT") and reasonably available control measures ("RACM") requirements, which, among other things, require states to submit nonattainment SIP revisions meeting the RACT and RACM provisions of the Act only for those areas designated as moderate or higher. 81 Fed. Reg. at 81,314/2-3 (to be codified at 40 C.F.R. §51.1312(a), (c)). Although this proposal continues EPA's past practice, EPA's exemption from RACT/RACM for marginal nonattainment areas conflicts with the text, legislative history, and goals of the Clean Air Act. Accordingly, the agency must revise its regulations to make clear that all ozone nonattainment SIPs, including those for marginal nonattainment areas, must include enforceable emission limits (including RACM and RACT), to attain the primary NAAQS "as expeditiously as practicable," 42 U.S.C. §7511(a)(1).

First, EPA's exemption from RACT and RACM for marginal areas is contrary to the purpose and plain language of the Clean Air Act, which explicitly requires that all nonattainment areas attain the primary NAAQS "as expeditiously as practicable," *id.* §7511(a)(1), and that nonattainment SIPs "shall provide for the implementation of all reasonably available control measures as expeditiously as practicable," *id.* §7502(c)(1). The Clean Air Act's provisions governing plan submissions and the specific requirements for marginal areas similarly require states to submit SIPs for each marginal nonattainment area that "correct requirements in (or add requirements to) the plan concerning reasonably available control technology as were required under section 7502(b)" of the Act "as in effect immediately before"

⁶ Notably, Congress expressly exempted designations from 5 U.S.C. §553(d), which generally mandates a delayed effective date. 42 U.S.C. §7407(d)(2)(B).

the 1990 amendments. *Id.* §7511a(a)(2)(A). Prior to the 1990 amendments, §7502(b) explicitly and unequivocally required each nonattainment SIP to “provide for the implementation of all reasonably available control measures as expeditiously as practicable.” 42 U.S.C. §7502(b)(2) (1990). The pre-1990 Clean Air Act further requires “such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology.” *Id.* §7502(b)(3) (1990). Thus, when read together with 42 U.S.C. §7502(b), as in effect before the 1990 amendments, the text of the Clean Air Act makes clear that “[f]or any Marginal Area,” the state must “add requirements” concerning RACT “as required” under §7502(b) of the pre-1990 Act.⁷

Second, EPA’s RACT and RACM exemption for marginal nonattainment areas not only conflicts with the plain terms of the statute, but is contrary to Congress’s intent in enacting the 1990 amendments. To the extent the interplay between current section 7511a(a)(2)(A) and the pre-1990 version of section 7502(b) is ambiguous, the legislative history underlying the 1990 amendments makes clear that Congress sought to require states to finally correct their SIPs to address RACT for each nonattainment area, including those designated as marginal. Indeed, in enacting the 1990 amendments, Congress made clear in legislative history that RACT must be implemented in all nonattainment areas. *See* 1 Legislative History 884 (Chaffee-Baucus Statement of Senate Managers) (“The conference agreement emphasizes the importance of implementation of reasonably available control technology in all nonattainment areas. The reference in section 182(a)(2) to guidance issued by EPA under section 108 of the Act is intended to cover control techniques guidelines, guidance on the applicability of RACT, and guidance covering the correction of deficiencies in State rules.”); H.R. Rep. No. 101-490 pt.1, at 235, *reprinted in* 2 Legislative History 3259 (for marginal areas, states “must submit various SIP revisions...to include... reasonably available control technology requirements, which EPA has identified in various guidance documents published and made available to the public (non-binding internal expressions of policy are not covered)”). In other words, Congress intended under the 1990 amendments for states to “correct” their SIPs by finally “add[ing]” RACT requirements, 42 U.S.C. §7511a(a)(2)(A), for “all nonattainment areas.” 1 Legislative History 884 (Chaffee-Baucus Statement of Senate Managers).

Third, the Act’s overarching purposes support requiring reasonably available pollution prevention measures as a core element of any nonattainment area plan. Indeed, the “primary

⁷ At the very least, marginal areas must require RACT “as interpreted in guidance issued by the Administrator under section 7408 of this title before November 15, 1990.” 42 U.S.C. §7511a(a)(2)(A).

goal” of the Act is “to encourage or otherwise promote reasonable Federal, State, and local government actions...for pollution prevention.” 42 U.S.C. §7401(c). The Act further instructs states and EPA to attain the NAAQS “as expeditiously as practicable.” *Id.* §7511(a)(1). To that end, EPA must revise its regulations to make clear that, as required by the Clean Air Act, all nonattainment plans, including those for marginal areas, “shall provide for the implementation of” all RACM (including RACT) “as expeditiously as practicable.” *Id.* §7502(c)(1).

Finally, even if RACT and RACM for marginal nonattainment areas were not required by the Act (which they are), EPA plainly has discretion to interpret §7511a(a)(2)(a) as requiring adoption of all RACM and RACT for marginal areas. This interpretation would effectuate Congress’s intent and would be consistent with the agency’s interpretation of the requirements of RACT for international border areas, 81 Fed. Reg. at 81,313/1, where EPA has appropriately proposed to require implementation of RACM, including RACT, for all ozone nonattainment areas—including those classified as marginal—prior to their invoking §7509a(b).

D. EPA Must Require States to Consider RACM for Sources Outside the Nonattainment Area.

EPA proposes to clarify its RACM regulatory provisions to provide that in addition to sources located in an ozone nonattainment area, states must also consider the impacts of emissions from sources outside an ozone nonattainment area (but within a state’s boundaries), and must require other measures for emissions reductions from these intrastate sources if needed to attain the ozone NAAQS by the attainment deadline, to “advance the attainment date,” or to satisfy reasonable further progress (RFP).⁸ 81 Fed. Reg. at 81,281/1-2, 81,295/1-2. EPA must adopt this interpretation for attaining timely or expediting attainment, to ensure that the Act’s promise of healthy air is fulfilled for all people in the United States. As EPA notes, upwind sources within a state often cause or contribute significantly to downwind nonattainment within the same state, preventing those areas from expeditiously attaining the NAAQS. Indeed, certain areas of the country have never attained EPA’s ozone NAAQS primarily because of such intrastate pollution impacts. Thus, EPA’s interpretation of the RACM provisions of the Act is necessary to ensure that “air quality within the entire geographic region” of the state meets the NAAQS. 42 U.S.C. §7407(a).

⁸ EPA must make clear that states cannot rely on out-of-area reductions of the sort at issue in this Part III.D to satisfy the percent reduction requirements for RFP under §7511a. *See infra* Part III.F.4.

EPA must further make four corrections to its proposed regulatory language to effectuate the agency's stated intentions. First, EPA must make clear that states have an obligation to ensure that the entire geographic area of the state attains the NAAQS. To that end, the regulations must also make clear that states must still consider all RACM measures, even when a nonattainment area is the responsibility of an air district with less-than statewide jurisdiction. Second, consistent with the statute, EPA must make clear that the states must consider other control measures outside the nonattainment area if necessary or appropriate to provide for timely attainment. Third, EPA must make clear that the possibility of obtaining out-of-area reductions does not lessen any requirements for obtaining emission reductions from within the nonattainment area. Finally, EPA must also clarify that RACM or other control measures outside the attainment area must also be included in the SIP if necessary or appropriate to advance attainment.⁹

1. EPA Must Require States to Apply RACM and Other Control Measures Outside a Nonattainment Area to Help Intrastate Nonattainment Areas Attain as Expeditiously as Practicable.

To meet the Act's requirements for expeditious attainment of NAAQS, states must address nonattainment caused or contributed to by intrastate emissions of ozone-forming pollution. States have a statutory obligation to develop a SIP that ensures the "entire geographic area" of the state attains the NAAQS timely—as expeditiously as practicable, and by no later than the attainment deadline. *See* 42 U.S.C. §§7407(a), 7410(a), 7502(c)(6), 7511(a)(1). The Act gives states the responsibility for submitting a SIP that will lead to timely attainment. *Id.* §§7410(a), 7502(b), (d), 7511a(a)-(e). EPA has interpreted the infrastructure SIP provisions of the Act as not requiring a state to include emission limits necessary to ensure attainment throughout the state.¹⁰ *See, e.g.*, 81 Fed. Reg. 62,375, 62,375/3-77/1 (Sept. 9, 2016). To abate air pollution in nonattainment areas, the Act makes clear that SIPs must include enforceable emission limitations and other control measures as may be necessary or appropriate to attain by the applicable attainment date. *Id.* §7502(c)(6). The Act further requires that each nonattainment

⁹ As discussed above, EPA must also make clear that the states' obligation to consider RACM and other measures for sources outside the nonattainment area applies not only to moderate or higher nonattainment areas, but applies to all ozone nonattainment areas, including those classified as marginal.

¹⁰ Commenters do not concede EPA's interpretation of §7410(a)(2)(A) is correct. But, assuming EPA holds to it, EPA must require states to address intrastate pollution as part of the nonattainment SIP process.

plan “shall provide for the implementation of all reasonably available control measures as expeditiously as practicable...and shall provide for attainment of the national primary ambient air quality standards.” *Id.* §7502(c)(1). The Act also requires “such” nonattainment plans to “require reasonable further progress.” *Id.* §7502(c)(2). Thus, in their nonattainment SIPs, states must consider and include RACM and other control measures throughout the state, where doing so is necessary or appropriate to provide for timely attainment of the NAAQS in a nonattainment area in the state.

Given EPA’s interpretation of states’ obligations under the infrastructure SIP provisions, unless states are required to address intrastate pollution in the context of a nonattainment SIP, states would be free to ignore intrastate pollution impacts altogether, even in the face of evidence that sources outside a nonattainment area are significantly contributing to in-state nonattainment. That result would effectively defeat the Clean Air Act’s primary purpose—to attain the NAAQS in “the entire geographic area” of the state as expeditiously as practicable. *See* 42 U.S.C. §§7407(a), 7502(c), 7511(a)(1).

Absent EPA’s proposed revisions to the RACM regulations, states would be (and have been) free to game the Clean Air Act and issue nonattainment SIPs and infrastructure SIPs that defeat the purposes of the Clean Air Act by failing to address the impacts of intrastate pollution. Indeed, as discussed below, certain ozone nonattainment areas of the country have never attained any of EPA’s health-based ozone standards, in part, because the states refuse to consider or impose emission limits on sources outside the designated nonattainment area that are indisputably causing or contributing to nonattainment elsewhere in the state. For those states, compliance with the NAAQS has become a perverse shell game, where the public and relatively well-controlled sources within a nonattainment area bear the burden of impacts from virtually uncontrolled upwind sources. That is clearly not what Congress intended when it required states to ensure attainment “within the entire geographic area” of the state, or when it gave EPA ultimate oversight over SIPs.

2. The Dallas-Fort Worth Area’s Chronic Nonattainment Problem Supports EPA’s Approach.

As EPA notes in its proposal, “[u]pwind sources within a state may have a significant impact on air quality in a nonattainment area, and failure to consider and require, as appropriate, reasonable control measures for these sources may preclude the expeditious attainment of a NAAQS in the area.” 81 Fed. Reg. at 81,295/1. This is not simply a theoretical possibility. Upwind, intrastate pollution impacts have, in fact, been the cause or a significant contributor to chronic downwind nonattainment, and states’ failure to consider and require

reasonable control measures in those circumstances has, in fact, precluded expeditious attainment.

For example, residents of the Dallas-Fort Worth (DFW) nonattainment area are consistently exposed to some of the highest ozone levels in the Central United States. In fact, as far back as data is available from the 1960s and 1970s, the DFW area has never attained EPA's current NAAQS for ozone, and far exceeds the ozone levels current scientific research dictates as necessary to protect human health—especially for sensitive populations such as children, asthmatics, the elderly and people who work or exercise outside.

a. The Dallas-Fort Worth Area's Chronic Nonattainment Problem Demonstrates That Upwind Sources Within a State Often Prevent Other Areas from Expeditiously Attaining the NAAQS.

EPA and Texas have long recognized that much of the ozone in the DFW area results from pollution blowing in from other counties within the state. In particular, EPA staff and the Texas Commission on Environmental Quality (TCEQ) have recognized that the several coal-fired power plants outside the DFW area regularly contribute to DFW's chronic ozone nonattainment problem.¹¹ These five East Texas coal plants—Martin Lake, Monticello, Big Brown, Limestone, and Welsh—are among the State's largest individual sources of nitrogen oxides ("NO_x"); the coal plants, by themselves, account for approximately 55% of the point source NO_x emissions in the 44-county area of northeast Texas, and approximately 15% of the

¹¹ EPA, Comments Re: Revisions to Dallas-Fort Worth Attainment Demonstration for the 2008 Eight-Hour Ozone Nonattainment Area, Project Number 2013-015-SIP-NR (Feb. 11, 2015) (observing that TCEQ's own discussion of background, formation, and transport "strongly supports the implementation of controls on NO_x sources located to the east and southeast of the DFW nonattainment area"); *see also* TCEQ, Dallas-Fort Worth Attainment Demonstration State Implementation Plan Revision for the 2008 Eight-Hour Ozone Standard Nonattainment Area, app.D Conceptual Model for the DFW Attainment Demonstration SIP Revision for the 2008 Eight-Hour Ozone Standard at D-65 to -66 (Project No. 2013-015-SIP-NR) (June 3, 2015), https://www.tceq.texas.gov/assets/public/implementation/air/sip/dfw/dfw_ad_sip_2015/AD/Adoption/DFW_SIP_Appendix_D_060315.pdf (observing that "ozone transported from outside the DFW area" and "background and transport analyses show that efforts focused solely on controlling local emissions may be insufficient to bring the DFW area into ozone attainment given that, on many days, background estimates are well over half the eight-hour ozone NAAQS of 75 ppb").

state's overall point source NO_x emissions.¹² This is unsurprising given the lack of modern and more effective NO_x controls on these coal-fired power plants. None of the coal boilers at these 5 plants is equipped with Selective Catalytic Reduction (SCR), standard end-of-pipe pollution control technology that has been employed in the electric sector for more than 20 years.

Texas's own source-apportionment modeling has also recognized the significant contribution of the coal-fired power plants in eastern Texas on DFW's persistent nonattainment problems.¹³ And a 2015 independent study conducted by the University of North Texas (UNT) confirmed those conclusions,¹⁴ demonstrating that the East Texas coal plants significantly contribute to nonattainment in the DFW area.

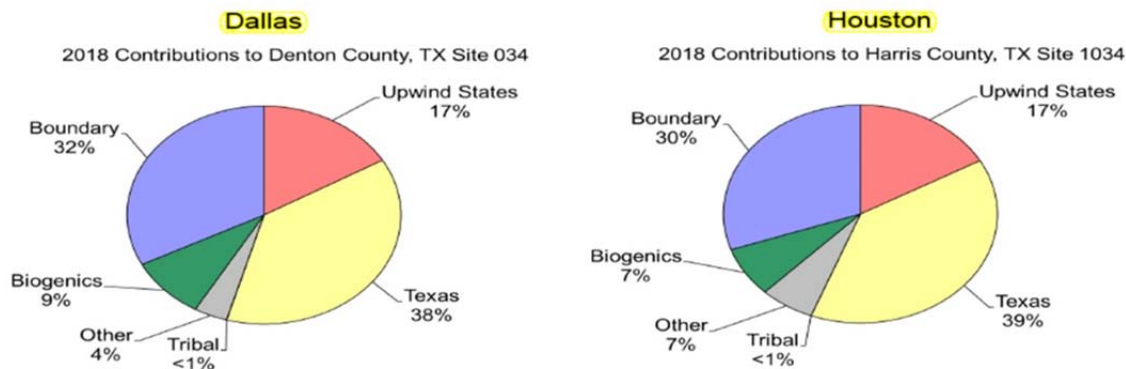
The DFW example vividly illustrates the problem that EPA's proposal seeks to address—namely, that upwind sources outside nonattainment areas, but within the state, often have significant pollution impacts to chronically nonattaining areas. Notably, the UNT model demonstrates that approximately 38% of the pollution contributing to the DFW region's stubbornly high ozone levels comes from point sources outside the 10-county nonattainment area, but within Texas state lines. Within that 38% of smog-forming pollution coming from outside DFW, but within Texas, the East Texas coal plants represent the largest percentage by far in any source category. Sources within the 10-county area accounted for 32% of the projected 2025 DFW design value, while other states accounted for only 17%.

¹² TCEQ, 2014 Point Source Emissions Inventory, <https://www.tceq.texas.gov/airquality/point-source-ei/psei.html>. EPA, Air Markets Data, <http://ampd.epa.gov/ampd/>. According to TCEQ, in 2014, the Limestone plant emitted 12,192 tons of NO_x, Martin Lake emitted 11,758 tons, Welsh emitted 7,563 tons, Monticello emitted 5,116 tons, and Big Brown emitted 5,087 tons, for a total of 41,716 tons. All the remaining point sources in TCEQ Regions 4 & 5, and Freestone and Limestone Counties—where Big Brown and Limestone are located—emitted only 34,424 tons.

¹³ Tai et al., Task 19, DFW APCA Run for 2009 with East Texas EGU Controls, Environ (June 22, 2006).

¹⁴ Drs. Mahdi Ahmadi and Kuruvilla John, North Texas Ozone Attainment Initiative Project ("North Texas Ozone Project"), (Nov. 2015), http://www.nctcog.org/trans/committees/aqtc/110615/Item_8.pdf.

Example Contributions for Eastern Receptors



EPA, Webinar to Discuss EPA’s Information Release on Interstate Transport for the 2008 Ozone NAAQS, at slide 41 (Feb. 5, 2015).

b. The DFW Example Demonstrates That Requiring Reasonable Control Measures for Upwind Sources Would Help Ensure Attainment and Further the Purposes of the Clean Air Act.

The DFW example not only illustrates the problem, but provides factual support for EPA’s solution in the proposed rule. Indeed, Texas’s persistent refusal to even consider (let alone require) appropriate, reasonable control measures for these coal plants outside the nonattainment area has precluded DFW from expeditiously attaining the NAAQS. Air dispersion modeling confirms that applying industry-standard post-combustion controls (or even requiring modest ozone season reductions), in conjunction with Clean Air Act-compliant controls in the DFW area itself, would likely ensure attainment of the ozone NAAQS at every monitor in the DFW area.

Using an air dispersion modeling platform that replicates the TCEQ model,¹⁵ the UNT makes clear that no other single additional control option improves DFW ozone levels as

¹⁵ Although UNT used TCEQ’s own inputs from the currently proposed DFW 2008 ozone NAAQS nonattainment SIP, we believe TCEQ underestimated emission rates and therefore provide a generator favorable approach.

significantly as reducing NO_x pollution from the East Texas coal plants. As indicated in the figure below, a 90% reduction in NO_x emissions from the five East Texas coal plants—all of which are outside the DFW nonattainment area—would result in ozone reductions of at least 3 ppb at all 20 DFW monitoring sites, and more than 4 ppb improvement at the notoriously failing Denton monitor. See North Texas Ozone Project at Slide 11.¹⁶ A 90% reduction is comparable to the emission limit achievable with Selective Catalytic Reduction technology—an industry-standard post-combustion control that is routinely applied to similarly situated sources.

90% NO_x reduction from the coal-fired EGUs

Maximum absolute difference of 8hr-mean O₃ predicted in 3x3 cells nearby CAMS (Scenario – FY18)

CAMS	Scenario A 67-day episode
Kaufman - C71	6.5
Dallas Hinton St. - C401	5.7
Arlington - C61	5.7
Grapevine - C70	5.7
Greenville - C1006	5.5
Dallas Exec. Airport - C402	5.3
Italy/Ellis - C650	5.3
Midlothian OFW - C52	5.3
Rockwall - C69	4.9
Midlothian Tower - C94	4.9
Dallas North - C63	4.7
Denton Airport South - C56	4.6
Keller-C17	4.5
Frisco - C31	4.4
Cleburne Airport - C77	4.4
Granbury - C73	4.1
Pilot Point - C1032	4.0
Ft. Worth Northwest-C13	3.7
Parker County - C76	3.6
Eagle Mt. Lake - C75	3.4

Table 1—Predicted Difference in Modeled Impacts from 90% NO_x Reductions from Martin Lake, Monticello, Big Brown, Limestone, and Welsh.

Even a more modest NO_x control measure from such sources, such as a phased-in or ozone-season mass emission limit, could achieve significant reductions, and advance the attainment of the NAAQS for the DFW area. Other states have taken a similar approach. For example, Georgia has imposed a mass based emission limit on coal fired power plants outside

¹⁶ As the modeling makes clear, the East Texas coal plants have an impact far greater than 0.70 ppb—exceeding EPA’s threshold for significance—at all monitors.

the Metro-Atlanta ozone nonattainment area. *See* Ga. Comp. R. & Regs. 391-3-1-.02(2)(jjj). Georgia's SIP for the Atlanta area under the 1-hour NAAQS makes clear that Georgia enacted this regulation to drive compliance with the 1-hour NAAQS based in part on reductions from intrastate, out-of-area sources, through reasonable available control measures.¹⁷ Indeed, such a mass-based, tons per hour emission limits on upwind, intrastate sources easily meet EPA's definition of RACM.¹⁸ Such approaches also give the plant owners and operators the flexibility to choose to comply with the emission limits through decreasing generation at these units, at least temporarily.

As the DFW example makes clear, upwind, intrastate pollution impacts have, in fact, been the cause or a significant contributor to chronic downwind nonattainment, and in many cases, the states' failure to consider and require reasonable control measures has, in fact, precluded expeditious attainment. Accordingly, EPA's RACM clarification is necessary to ensure that states "properly consider and require, as appropriate, reasonable control measures" for sources that, if left uncontrolled, "may preclude the expeditious attainment of a NAAQS in the area." 81 Fed. Reg. at 81,295/1.

3. EPA Must Make Corrections to the Text of the RACM Regulation.

EPA must make four corrections to its proposed regulatory language to comport with the statute and effectuate the agency's intent.¹⁹

¹⁷ Air Prot. Branch, Env'tl. Prot. Div., Ga. Dep't of Natural Res., Georgia's State Implementation Plan for the Atlanta Ozone Non-attainment Area 3-17, 3-18, 3-20 (July 17, 2001), https://permanent.access.gpo.gov/websites/www.dnr.state.ga.us/dnr/environ/plans_files/plans/sip_narrative.pdf.

¹⁸ "EPA defines RACM as any potential control measure for application to point, area, on-road and non-road emission source categories that: (1) Is technologically feasible; (2) economically feasible; (3) does not cause 'substantial widespread and long-term adverse impacts'; (4) is not 'absurd, unenforceable, or impracticable'; and (5) can advance the attainment date by at least one year." 81 Fed. Reg. 75,764, 75,770/1 (Nov. 1, 2016); *accord*, e.g., 74 Fed. Reg. 2945, 2951/3 (Jan. 16, 2009).

¹⁹ As discussed in detail above, EPA must also make clear that the states' obligation to consider RACM and other measures for sources outside the nonattainment area applies not only to moderate or higher nonattainment areas, but applies to all ozone nonattainment areas, including those classified as marginal.

First, as noted, EPA must make clear that states have an obligation to ensure that the “entire geographic area” of the state attains the NAAQS. 42 U.S.C. §7407(a). Further, the Act gives states responsibility for developing SIPs to meet this obligation. Thus, EPA’s RACM regulations must also make clear that each state’s nonattainment SIP must consider all RACM measures, including those for sources outside the nonattainment area, even if the nonattainment area is the responsibility of an air district with less-than statewide jurisdiction.

Second, consistent with the statute, EPA must make clear that the states must consider other control measures outside the nonattainment area if necessary or appropriate to provide for timely attainment. As support for its clarification of the RACM regulations, EPA properly relies on §7502(c)(6)’s requirement to include in each nonattainment SIP measures necessary to provide for attainment. 81 Fed. Reg. at 81,295/1. The actual text of the statute, however, requires the consideration of “other control measures...as may be necessary or appropriate” to provide for attainment. 42 U.S.C. §7502(c)(6) (emphasis added). EPA should correct the corresponding text of the RACM regulation not only to ensure consistency with the statute, but to make clear that states have an obligation to also consider “appropriate” other measures that will advance attainment—even if those measures are not strictly “necessary” to do so. EPA’s singular use of the term “necessary” is inconsistent with the statute, and would create a perverse incentive for states to avoid reasonable, cost-effective control measures that can advance attainment by concluding that such measures are not strictly “necessary.”

Third, EPA should make clear that the potential availability of out-of-area reductions for ensuring timely attainment does not mean nonattainment areas can do any less to reduce their own emissions. Similarly, as discussed below, in Part III.F.4, nonattainment areas must themselves make minimum percent reductions from emissions within their boundaries to satisfy §7511a’s RFP requirements. Reductions from outside the area cannot be credited toward those reduction requirements, and EPA should so clarify in the regulatory text.

Finally, EPA must also clarify that RACM or other control measures outside the attainment area must also be included in the SIP if “necessary or appropriate” to advance attainment or for RFP. In its proposal, EPA notes that states must consider RACM or other measures if necessary or appropriate to meet the RFP requirements of 42 U.S.C. §7502(c)(2). In the text of the proposed regulation, however, EPA omits reference to measures appropriate to meet RFP. EPA should correct the text of the regulation to be consistent with the preamble, and to make clear that states must also consider and require reasonable controls from intrastate sources, outside the attainment area, if necessary or appropriate to make RFP, subject to the requirement described above that certain RFP requirements must come from within the nonattainment area itself.

E. Reasonably Available Control Technology.

1. Trading.

EPA proposes to retain most of its current approach to RACT, meaning that it proposes to continue to allow emission trading to satisfy RACT. 81 Fed. Reg. at 81,280/3-81/1 (relying on rationale in prior ozone implementation rule, 80 Fed. Reg. 12,278). This approach is illegal and arbitrary, as explained in the litigation over that prior rule (upon which we draw below). We further incorporate by reference our prior comments explaining why regional trading programs do not satisfy the RACT mandate that emission reductions come from “in the area.” EPA-HQ-OAR-2010-0885-0180 at 20-21.

The Act requires states with nonattainment areas classified moderate or higher “to require the implementation of reasonably available control technology under section 7502(c)(1) of this title with respect to” “[a]ll...major stationary sources of VOCs that are located in the area.” 42 U.S.C. §7511a(b)(2) (emphasis added). This controlling RACT requirement also applies to major sources of NO_x in such nonattainment areas or in an ozone transport region, with three specific exemptions, discussed more below. *Id.* §§7511a(f), 7511c(b)(2). By allowing nonattainment areas subject to RACT to satisfy it by averaging emissions across the area, EPA lets individual sources avoid achieving any emission reductions, and even to increase emissions, rather than achieving the technology-based emission reductions that Congress mandated.

As confirmed by the legislative history, the Act unambiguously mandates “the implementation of reasonably available control technology...with respect to...[a]ll...major stationary sources of [NO_x] that are located in the area.” *See* H.R. Rep. No. 101-490 pt.1, at 237, *reprinted in* 2 Legislative History 3261 (“The sip [*sic*] revision must provide for the implementation of...RACT...on all major stationary sources.”). The key terms “implementation” and “all” take their ordinary meaning. *E.g., Sebelius v. Cloer*, 133 S. Ct. 1886, 1893 (2013). “Implementation” means “‘giv[ing] practical effect to and ensur[ing] of actual fulfillment by concrete measures.’” *Friends of Blackwater v. Salazar*, 691 F.3d 428, 441 (D.C. Cir. 2012) (Rogers, J., dissenting) (quoting *Merriam Webster’s Collegiate Dictionary* 583 (10th ed. 1993)). As used in the technology provision, “all” means “each one of.” *Black’s Law Dictionary* 74 (6th ed. 1990); *see Bd. of County Comm’rs of Kay County v. Fed. Housing Finance Agency*, 754 F.3d 1025, 1029 (D.C. Cir. 2014) (meaning of “all” and “taxation” “is unambiguous: all taxation clearly

encompasses all taxation” (emphasis in original)). Thus, the statute unambiguously mandates the RACT requirement be actually fulfilled at each major source of NO_x in covered areas.²⁰

Since 1976, EPA has defined “reasonably available control technology” as “the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.” 80 Fed. Reg. at 12,278/2 n.32 (emphasis added; citing 1976 memorandum). Thus, the statute, as originally interpreted by EPA, requires implementation of the lowest emission limit that a particular factory or power plant is capable of meeting considering the relevant factors, not a collective emission limitation for an entire class of sources located across a nonattainment area or an entire state or region. This was the well-established definition of “reasonably available control technology” when Congress amended the Act in 1990 to require it for “all” major sources in moderate and above areas.

Confirmation that EPA’s action is unlawful comes from Congress’s provision of three carefully-designed exemptions from the NO_x RACT requirement: (1) “for those sources” where EPA finds that NO_x reductions “from the sources concerned” would not benefit ozone air quality; (2) for areas where EPA finds on an area-wide basis that NO_x reductions would not benefit ozone air quality; or (3) at the source or area level, where EPA finds that fully implementing NO_x RACT would not benefit ozone air quality, in which case only partial implementation would be necessary. 42 U.S.C. §7511a(f)(1)-(2) (emphasis added). EPA does not claim its policy relies on any of these express exemptions. Because Congress specified when major NO_x sources may be exempt from implementing control technology for NO_x, EPA lacks authority to create a new exemption based on area-wide or regional averaging. *E.g., Sierra Club v. EPA*, 294 F.3d 155, 160 (D.C. Cir. 2002). Emissions averaging unlawfully renders the source-specific exemption superfluous. *Circuit City Stores v. Adams*, 532 U.S. 105, 113 (2001).

EPA wrongly claims that *NRDC v. EPA*, 571 F.3d 1245 (D.C. Cir. 2009), ratified its interpretation,²¹ but that case held that EPA could not rely on a regional trading program to

²⁰ Whatever theoretical ambiguity there may be in terms in the RACT provision, “[a]mbiguity is a creature not of definitional possibilities but of statutory context,” *Brown v. Gardner*, 513 U.S. 115, 118 (1994), and here, read as a whole, §7511a(b)(2) allows only for each major source to actually fulfill the RACT requirement.

²¹ See 80 Fed. Reg. at 12,280/3-81/2 (claiming that *NRDC* found that the Act requires that nonattainment areas “achieve...the reductions that would be achieved ‘if RACT-level controls were installed in the area’” (quoting 571 F.3d at 1258)).

satisfy the RACT requirement where reductions to satisfy the requirement did not have to come from inside the nonattainment area. 571 F.3d at 1258. The Court was not presented with—and did not decide—the question of whether averaging could be allowed inside a nonattainment area. Although the Court said “EPA may be able to reinstate the provision” if it makes a particular finding, the Court did not decide the matter. *Id.* (emphasis added). Indeed, in discussing whether an emissions-averaging approach might be lawful, the Court wrote carefully in the subjunctive: “[e]ven if the RACT requirement could be met through an emissions-averaging approach” and “[e]ven if the EPA were correct that ‘nothing in the statute precludes consideration of the air quality impact that controls under a region-wide cap-and-trade program may have on NO_x within the nonattainment area.’” *Id.* at 1257 (emphasis added). Thus, *NRDC* held only that all an area’s reductions to satisfy the RACT requirement must come from within that area; it did not rule on the issue at hand here—the legality of using averaging inside a nonattainment area to satisfy the technology requirement.

EPA also tries to rely on its own past guidance, *see* 80 Fed. Reg. at 12,280/3, 12,281/2, but that guidance is by its own terms non-final and non-binding, 57 Fed. Reg. 55,620, 55,620/2-21/1, 55,628/3-29/1 (Nov. 25, 1992); EPA-HQ-OAR-2003-0079-0845 at 12-13. Nor could EPA’s past guidance render lawful its unlawful interpretation, anyhow.

Further, because emission averaging does not actually provide RACT-level reductions, authorizing it is unlawful and arbitrary. EPA recently correctly proposed to recognize that the Los Angeles area’s RECLAIM NO_x emission trading program does not satisfy RACT. 81 Fed. Reg. 76,547 (Nov. 3, 2016). Refineries are the greatest stationary NO_x sources in the area—which has the worst ozone pollution in the country—yet at least half of them “have no NO_x controls” on some of their NO_x-emitting equipment. <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2015/2015-dec4-030.pdf> (“RECLAIM Board Package”) attach.H 2, pt.1 app.A 54 (emphasis added). For example, instead of implementing controls, refineries have excused their pollution by buying emission credits from sources that closed permanently because, say, they went bankrupt. *See* <http://www.aqmd.gov/docs/default-source/reclaim/reclaim-annual-report/2014-reclaim-report.pdf> at 1-2. The South Coast Air Quality Management District itself estimates that RECLAIM allows so many extra tons/day of NO_x emissions that emission credits accounting for 4 tons/day could be eliminated immediately “without installing control equipment.” RECLAIM Board Package attach.B 1 (emphasis added). RECLAIM thus allows sources to avoid making even cost-effective emission reductions. *See, e.g., id.* attach.H pt.1 app.A 73, app.B 78, 92.

Poor results are not unique to RECLAIM. A recent analysis for the New York Independent Service Operator, in charge of the electricity market in New York, found that emission averaging likely “had the effect of increasing rather than decreasing overall NO_x

emissions across electric generating units in New York City.”

http://www.nyiso.com/public/webdocs/markets_operations/documents/Studies_and_Reports/Reports/Market_Monitoring_Unit_Reports/2014/NYISO2014SOMReport__5-13-2015_Final.pdf at 89. Thus, emission averaging not only contravenes the statutory text, but also unlawfully and arbitrarily flouts Congress’s intent that emission reductions be realized in the real world, not just on paper.

2. Reviewing Prior RACT Determinations.

In past implementation rules, EPA has expressly required states with nonattainment areas that previously were subject to RACT to review their prior RACT determinations based on currently available information and public comments. 81 Fed. Reg. 58,010, 58,037/3 (Aug. 24, 2016); 80 Fed. Reg. at 12,279/2, 12,280/1-2; *NRDC*, 571 F.3d at 1254-55. EPA should reaffirm that states must do the same for the 2015 NAAQS.

3. New Requirements for 2015 Ozone NAAQS Implementation.

EPA has proposed certain new requirements for RACT SIPs because “existing RACT provisions do not contemplate some RACT SIP revision submittal and implementation deadlines...including area reclassifications and the issuance of new [control techniques guidelines].” 81 Fed. Reg. at 81,293/2-3. The statute largely dictates the details of such requirements, and EPA must make sure in this rulemaking that it hews to statutory directives and avoids, among other things, the problems in the 2008 rulemaking, discussed above, in Part III.B.

a. Area Reclassifications.

EPA states that the 2008 ozone implementation rules did not “establish regulatory schedules for submission and implementation of RACT SIP revisions for areas reclassified after initial area designations under an ozone NAAQS.” 81 Fed. Reg. at 81,293/3. As such, the agency proposes “defaults” that, following a reclassification action, would require submissions “no later than 24 months after the effective date of reclassification, or the deadline established by the Administrator in the action reclassifying an area.” *Id.* The agency notes that revisions should be “implemented as expeditiously as practicable, but no later than the start of the ozone season attainment year associated with the area’s new attainment deadline, or January 1 of the third year after the associated SIP revision submittal deadline, whichever is earlier.” *Id.* As discussed above, in Part III.B, deadlines must be keyed to the actual date of reclassification, rather than the effective date, in order to comply with the statutory requirements of the Act.

The agency is “proposing a generic RACT SIP implementation deadline of no later than January 1 of the third year after the associated SIP revision submittal deadline” which would apply in the absence of a deadline set by the administrator. *Id.* at 81,294/1-2. The agency also proposes that the administrator retain her authority to establish a different implementation deadline. *Id.*

The statute already provides for just these types of defaults in many circumstances, yet EPA illegally and arbitrarily departs from the statute. The outside implementation deadline for RACT for sources covered by §7511a(b)(2)(B) and (C) must be 54-and-one-half months after the date of nonattainment designation for the 2015 standard, in order to comply with the statute. Congress provided this “default,” and gave EPA only limited authority to adjust it “to assure consistency among the required submissions.” 42 U.S.C. §7511a(i). Far from satisfying this condition, EPA’s proposal for a default RACT implementation deadline following redesignation would put the deadline for implementing RACT after the deadline for attaining the standard.

For example, if EPA makes initial designations on Oct. 1, 2017 (as is legally required), bump-ups for marginal areas to moderate would be due by Apr. 1, 2021. *Id.* §7511(b)(2). Under EPA’s proposed defaults, RACT SIP submissions for such areas would presumptively be due two years later—Apr. 1, 2023, 81 Fed. Reg. at 81,314/2 (proposed to be codified at 40 C.F.R. §51.1312(a)(2)(ii))—and RACT implementation would be required “no later than January 1 of the 3rd year after” that, which would be Jan. 1, 2026, *id.* (proposed to be codified at 40 C.F.R. §51.1312(a)(3)(ii)). Jan. 1, 2026, is over two years after the attainment deadline for moderate areas in this scenario (Oct. 1, 2023). It is arbitrary and unlawful for EPA to propose “default” deadlines that so flout the statutory structure. EPA must instead leave the RACT implementation deadline for reclassified areas where it is for initially designated areas.

b. Issuance of New Control Techniques Guidelines.

Similarly, EPA proposes default schedules for submission and implementation with respect to control techniques guidelines (CTGs). For submissions, EPA proposes two options—Option 1 is keyed to the approach for reclassifications, above, and Option 2 accompanies this with an express statement of the Administrator’s authority to set deadlines for submission with respect to CTGs. 81 Fed. Reg. at 81,294/2-3.

The agency correctly notes that RACT provisions in §7511a(b)(2)(A) of the statute expressly require submission of SIP revisions “within the period set forth by the Administrator in issuing the relevant CTG document.” 42 U.S.C. §7511a(b)(2). As such, EPA’s Option 2 is redundant with the language of the statute. Further, both options fail to comply with the Act by keying implementation timelines to effective dates of a revised NAAQS. EPA must set schedules for submittal and implementation of CTGs in accordance not with effective dates, but

with the action itself issuing the CTG. 81 Fed. Reg. at 81,294. Further, regarding both options, we urge the agency to issue strict schedules for implementing CTGs. CTGs, and the RACT regime as a whole, are meant to directly address, at a source-specific level, air pollution emissions that are contributing to recalcitrant air pollution problems in a nonattainment area. The agency, and the Administrator, must enact the mandates of the statute, and, where allowed discretion, see that deadlines are set to provide for air pollution reductions as expeditiously as practicable.

F. Reasonable Further Progress.

1. Milestone Demonstrations.

We support EPA's proposal to issue long overdue regulations to implement §7511a(g)(2)'s command that serious and higher nonattainment areas demonstrate compliance with RFP milestones within 90 days of the milestone date, and thus to implement the rest of §7511a(g). *See* 81 Fed. Reg. at 81,292/2-93/2; *see generally* Thomas O. McGarity, *Missing Milestones: A Critical Look at the Clean Air Act's VOC Emissions Reduction Program in Nonattainment Areas*, 18 Va. Envtl. L.J. 41, 84-85, 89-90, 96-97 (1999) (describing how milestone program has not been implemented and discussing reasons why that has happened). One of the core purposes of the 1990 Amendments was to increase accountability and ensure reductions actually occur. The milestone program was supposed to be integral to that effort. H.R. Rep. No. 101-490 pt.1, at 246, *reprinted in* 2 Legislative History 3270 (provision requires areas "to track their progress, and to take timely corrective action to compensate for any emission reduction shortfall"). EPA must finally implement it.

EPA proposes two options for how states demonstrate compliance with RFP milestones, with states allowed to use either. 81 Fed. Reg. at 81,293/2. The first option EPA proposes is a "percent implementation" approach, under which a state could satisfy the milestone demonstration by showing that it has implemented sufficient portions of its SIP to achieve the required emission reductions. *See id.* at 81,292/3-93/1, 81,314/2 (proposed to be codified at 40 C.F.R. §51.1310(c)(2)(ii)). The second proposed option is an "actual emissions reductions" approach, under which a state demonstrates compliance with a milestone using the emission inventory data the Act requires it to obtain and report. *Id.* at 81,292/3, 81,314/2 (proposed to be codified at 40 C.F.R. §51.1310(c)(2)(i)).

Whatever discretion EPA may have to specify the form and manner, and required information and analysis, in a milestone compliance determination, only the second—"actual emissions reductions" approach—option is lawful and rational. As an initial matter, only it lines up with EPA's historical interpretation of the milestone compliance requirement and with the

statutory definition of RFP. Only 18 months after enactment of the Clean Air Act Amendments of 1990, EPA explained that “[milestone] demonstrations are due 90 days after each milestone was to have been achieved and shall be submitted as an areawide inventory of actual emissions.” 57 Fed. Reg. 13,498, 13,518/1-2 (Apr. 16, 1992).

This interpretation, made nearly contemporaneously with enactment, accords with the statute. Subpart 2 defines RFP to consist of at least a 15% reduction “from baseline emissions” of VOCs within six years of designation/classification, “accounting for any growth in emissions after” the baseline year, and, for serious and higher areas, the equivalent of 3% annual reductions, averaged over every three years, “from the [same] baseline emissions,” starting on the deadline for completion of the first RFP requirement and continuing until the attainment deadline, all with exceptions not relevant here. 42 U.S.C. §7511a(b)(1)(A)(i), (c)(2)(B). “Baseline emissions” are defined to “mean[] the total amount of actual VOC or NO_x emissions from all anthropogenic sources in the area” in the baseline year, again with exceptions not relevant here. *Id.* §7511a(b)(1)(B) (emphasis added). Thus, because Subpart 2 defines RFP in terms of “actual” emissions, RFP can only be satisfied by actual emission reductions. Further, because RFP must address “any growth in emissions after” the baseline year, only a determination of actual emissions suffices to gauge compliance with a baseline. Otherwise, even if control measures in a SIP are implemented, growth in emissions from sources not subject to NSR or SIP control measures could undercut the projected emission reductions from the SIP.

Statutory context, purpose, and legislative history confirm that only the second option is lawful. Congress sought to bar bureaucratic games that did not actually result in emission reductions. H.R. Rep. No. 101-490 pt.1, at 229, *reprinted in* 2 Legislative History 3253; 1 Legislative History 789 (statement of Sen. Mitchell). This was particularly the case for RFP, where Congress created the milestone program so that “areas will be required to track their progress, and to take timely corrective action to compensate for any emission reduction shortfall.” H.R. Rep. No. 101-490 pt.1, at 246, *reprinted in* 2 Legislative History 3270; *see also id.* (“This system is intended to assure that such areas remain on track toward attainment of the standard by the applicable deadline, and that those areas falling behind their emission reduction timetable learn of their shortfall as quickly as possible, and have an early opportunity to take corrective action.”). Indeed, in a Conference Report provided by Sen. Baucus, Congress made clear that inventories of actual emissions would be determinative of whether an area met its RFP obligations. 1 Legislative History 1002. As milestone compliance determinations are when EPA is supposed to verify that serious and higher areas are meeting RFP’s requirement for reductions in actual emissions, the milestone compliance determinations must also depend on actual emissions.

For Option 1—the “percent implementation” approach—EPA relies largely on its approach for PM_{2.5}. See 81 Fed. Reg. at 81,292/3-93/1. But, as EPA acknowledges, *see id.* at 81,293/1, the underlying milestones with which a PM nonattainment area must demonstrate compliance differ significantly from the milestones at issue for an ozone nonattainment area. For PM, milestones simply need to be “quantitative.” 42 U.S.C. §7513a(c)(1). But, as explained above, for ozone, Congress specifically determined the milestone: actual emission reductions, accounting for emission growth. Showing a given percentage of SIP control measures have been implemented may demonstrate compliance with a generic “quantitative” milestone, but it does not necessarily demonstrate compliance with the specific milestone Congress set under Subpart 2.

EPA’s proposal for Option 1 is also irrational because it fails to address the potential for emission growth that could counteract the emission reductions resulting from SIP controls. EPA’s proposal makes clear that Option 1 “is grounded in SIP provisions that correlate control measures and resulting emissions reductions.” 81 Fed. Reg. at 81,293/1. By failing to account for situations where, in essence, the SIP proves inadequate to satisfy RFP, EPA arbitrarily fails to consider an important factor.

EPA cannot justify Option 1 based on structuring its emission reporting rules in a way that means emission inventories may not be compiled by the time that milestone determinations are due. If there is some conflict between what EPA’s rules allow and what the statute requires, the statute governs. See *South Coast*, 472 F.3d at 903 (“While EPA maintains that it would be impractical to enforce these penalties because EPA will no longer make findings of attainment and conformity assessments as to the one-hour standard, section 172(e) does not condition its strict distaste for backsliding on EPA’s determinations of expediency; EPA must determine its procedures after it has identified what findings must be made under the Act.” (citation omitted; emphasis in original)).

2. Baseline Year.

EPA proposes the same illegal approach it took for the 2008 NAAQS, with the default year being 2017, but allowing states to use a year from 2015 through the year in which designations become effective. 81 Fed. Reg. at 81,280/3. EPA also requests comment on setting the baseline year as the year of the designations’ effective date. *Id.* Because, as explained below, EPA has no authority to set a different “effective date” than the actual date of designation, neither option is lawful. The second option comes closest, however, as explained in the litigation over the implementation rule for the 2008 NAAQS (largely copied below).

The Act specifies that the first RFP requirement, a 15% reduction compared to “baseline emissions” of VOCs, must be met “within 6 years after the date of the enactment of the Clean Air Act Amendments of 1990,” with “baseline emissions” defined as “the total amount of actual VOC or NOX emissions from all anthropogenic sources in the area during the calendar year of the enactment of the Clean Air Act Amendments of 1990,” excluding certain emissions not relevant here, Pub. L. No. 101-549, tit. I, § 103, 104 Stat. 2399, 2428-29 (1990) (codified at 42 U.S.C. §7511a(b)(1)(A)(i), (b)(1)(B)). The second RFP requirement applies in serious and higher areas; it begins on the deadline for completion of the first RFP requirement and mandates the equivalent of 3% annual reductions in VOCs, averaged over every three years, until attainment. 42 U.S.C. §7511a(c)(2)(B)-(C). Congress thus specified that there be a trigger date for the RFP requirements, with that trigger date determining both the deadlines for compliance with RFP and the “baseline year” for progress calculations. *See NRDC*, 777 F.3d at 464.

For the 1-hour NAAQS that existed in 1990, the trigger date was the date of enactment, which “is the date on which Congress specified that the initial designations/classifications...under the 1990 amendments would take effect.” *Id.* (citing 42 U.S.C. §§7407(d)(1)(C), 7511(a)(1)). Thus, for initial designations/classifications under the 1-hour NAAQS, the baseline year was the year of initial designations/classifications, *i.e.*, “calendar year 1990.” 42 U.S.C. §7511a(b)(1)(B).

That the RFP requirements’ trigger date is the date of designation/classification is further shown by Congress’s approach to areas subsequently redesignated nonattainment for ozone, §7511(b)(1). There, Congress made clear that areas redesignated nonattainment for ozone after 1990 would be “subject to the same requirements” as areas initially designated nonattainment, “except that any absolute, fixed date applicable in connection with any such requirement [under Subpart 2] is extended by operation of law by a period equal to the length of time between November 15, 1990, and the date the area is classified.” *Id.* §7511(b)(1); *see also NRDC*, 777 F.3d at 464, 466. Thus, an area redesignated nonattainment would be subject to the RFP requirements just like an area initially designated nonattainment, but the associated dates would be moved out. The trigger date would be the date of its designation/classification, and thus the baseline year would be the calendar year of that date. For example, if an area were redesignated nonattainment for ozone on March 17, 1995, the progress requirements’ trigger date would be March 17, 1995, and the baseline year would be 1995. *Cf.* 70 Fed. Reg. 71,612, 71,637/3 & n.40 (Nov. 29, 2005) (if area is redesignated nonattainment after initial round of designations, baseline year may change).

Similarly for a revised ozone NAAQS, the RFP requirements’ deadlines and baseline year are determined by a specified trigger date. As explained above, Congress intended that trigger date to be the date of designation/classification. *See NRDC*, 777 F.3d at 464-66. Thus, just

as for the initial designations/classifications in 1990, and just as Congress provided for any area redesignated nonattainment, when areas are designated nonattainment under revised ozone NAAQS, the RFP requirements' trigger date is the date of designation/classification, and that trigger date also determines the baseline year.

Even if there were some ambiguity about the Act's requirement for the baseline year, EPA's decision not to set it at the year of designation/classification but to allow states to choose their own baseline is irrational and unlawful. By its plain text, the Act specifies the baseline year: it does not give states any discretion over it. *See* 42 U.S.C. §7511a(b)(1)(B).

When Congress wanted to authorize variation in implementing ozone NAAQS, it allowed it expressly. For example, it allowed areas to qualify for exemptions from fully satisfying RFP under a limited set of circumstances. 42 U.S.C. §7511a(b)(1)(A)(ii), (c)(2)(B)(ii), (c)(2)(C). Congress expressly provided for adjustment of the baseline used in §7511d's fees control. *Id.* §7511d(b)(2). Congress also specified that, if an area is reclassified, EPA can adjust the relevant deadlines (except the attainment deadline) under certain circumstances. *Id.* §7511a(i). Congress did not, however, provide for such variation in the baseline year for the progress requirements, and that choice must be given effect.

EPA's approach also conflicts with Congress's intent to limit discretion and gamesmanship in implementing the Act's ozone provisions. *See, e.g., Whitman*, 531 U.S. at 484; *South Coast*, 472 F.3d at 887, 894-95; H.R. Rep. No. 101-490 pt.1, at 229, *reprinted in* 2 Legislative History 3253. EPA's approach authorizes such gamesmanship by letting states cherry-pick a baseline year that minimizes their emission-reduction obligations.

3. Initial 15% RFP Plans.

By proposing to retain its approach from the implementation rule for the 2008 NAAQS, EPA proposes again to allow areas with approved 15% RFP plans that have not actually achieved 15% emission reductions of VOCs within six years of their designation to avoid ever complying with the statutory command. *See* 81 Fed. Reg. at 81,280/2-3. This is illegal.

Congress required that for emission reductions to be "creditable" toward meeting the 15% reduction in VOC emissions requirement—*i.e.*, for an area to have met that requirement—reductions must "have actually occurred, as of 6 years after" the trigger date, "from the implementation of measures" required by the SIP, federal rules, or enforceable stationary source permits. 42 U.S.C. §7511a(b)(1)(C) (emphasis added). Thus, a nonattainment area has satisfied this RFP requirement under an earlier ozone NAAQS only if the reductions actually occurred, as a result of enforceable measures, within six years of the trigger date for that standard. *See* 1 Legislative History 884 (Chaffee-Baucus Statement of Senate Managers) (reiterating intent "that

the required reductions from 1990 levels are actually achieved" (emphasis added)). EPA's proposal unlawfully allows paper-only reductions to stand in for the actual reductions Congress demanded.

4. Out of Area Reductions.

EPA correctly proposes not to allow out-of-area reductions to satisfy the percent reduction requirements of RFP. 81 Fed. Reg. at 81,280/2-3 & n.12. As the Environmental Movant-Intervenors explain in the current challenge to the implementation rule for the 2008 NAAQS, EPA lacks authority to allow a nonattainment area to claim emission reductions occurring outside the nonattainment area as credit toward meeting these RFP requirements. Brief of Environmental Movant-Intervenors 7-15, *South Coast Air Quality Mgmt. Dist.*, No. 15-1115 (D.C. Cir. Dec. 8, 2016). The Act mandates the minimum percentage reductions be achieved "from baseline emissions." 42 U.S.C. §7511a(b)(1)(A)(i); *accord id.* §7511a(c)(2)(B). It further defines "baseline emissions" as "the total amount of actual VOC or NO_x emissions from all anthropogenic sources in the area," with exclusions not relevant here. *Id.* §7511a(b)(1)(B); *see also id.* §7511a(c)(2)(B) (requiring emission reductions "from the baseline emissions described in subsection (b)(1)(B) of this section"). Thus, Congress expressly required that emission cuts be achieved "from" a baseline composed of emissions from sources "in the area," and those cuts must identically come from sources "in the area."

"The area" can only refer to "the nonattainment area." In the first sentence of §7511a(b) (emphasis added), Congress required all states with moderate or higher nonattainment areas to, "with respect to the Moderate Area,...submit the revisions to the applicable implementation plan described under this subsection." *See also id.* §7511a(c) (serious areas must similarly, "with respect to the Serious Area...submit the revisions to the applicable implementation plan (including the plan items) described under this subsection" (emphasis added)). Next, in §7511a(b)(1)(A), Congress required the implementation plan to provide for emission cuts "of at least 15 percent from baseline emissions," and, in §7511a(b)(1)(B) (emphasis added), defined "baseline emissions" to mean the total human-caused emissions "in the area." *See also id.* §7511a(c)(2)(B) (requiring additional emission reductions from the same "baseline emissions" after completion of initial 15% reductions). As the entirety of §7511a(b) and (c) prescribe implementation plan requirements for "Moderate Areas" and "Serious Areas," respectively, "the area" referred to in §7511a(b)(1)(B) must be "the nonattainment area" that must satisfy the congressionally-mandated planning requirements—not some other area. *See Am. Bus Ass'n v. Slater*, 231 F.3d 1, 4-5 (D.C. Cir. 2000) ("[i]t is a rule of law well established that the definite article "the" particularizes the subject which it precedes." (citation omitted) (alteration in original)).

The clarity of the statutory mandate is confirmed by EPA's contemporaneous construction of the 1990 Amendments. Less than a year and a half after enactment of the Amendments, EPA construed the statute as requiring the RFP requirements be achieved exclusively within the nonattainment area:

The [Clean Air Act Amendments of 1990] require that the 15 percent emissions reductions come from the baseline emissions. The baseline emissions are defined to be all emissions "in the area," (less required adjustments) which EPA interprets to mean emissions emanating from the designated nonattainment area. All emissions reductions must therefore come from within the designated nonattainment area.

57 Fed. Reg. at 13,509/2 (emphasis added); *accord id.* at 13,517/3. This natural reading of the Act is the same one advanced in the rule at issue here, and there is no basis to conclude the Act's meaning has changed since EPA initially explained it.

NRDC merely confirms what the text makes clear: "reductions from sources outside the nonattainment area do not satisfy the requirement." 571 F.3d at 1256. As EPA has repeatedly explained,²² any claim that EPA has authority to allow out-of-area reductions to satisfy the RFP requirements is foreclosed by NRDC's holding that "almost identical" language in the statutory RACT requirement unambiguously requires reductions to come from within the specific nonattainment area. *See* 571 F.3d at 1256-57.

Congress has specified the route for addressing emissions impacts from areas nearby an area that is violating standards. Specifically, the Act requires a nonattainment designation for "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." 42 U.S.C. §7407(d)(1)(A)(i) (emphasis added). Thus, if a state believes that an area is contributing to nearby nonattainment, it should include that area in its recommended designation for the nonattainment area, and, if EPA agrees, EPA must include it in the nonattainment area, subjecting it to all the safeguards mandated by Congress for correcting violations of standards. Allowing out-of-area reductions to satisfy RFP requirements illegally circumvents the statutory designation provisions by allowing states to selectively claim credit

²² 80 Fed. Reg. at 12,273/2-74/1; 78 Fed. Reg. 34,178, 34,191/1-3 (June 6, 2013); 75 Fed. Reg. 80,420, 80,422/3-23/1 (Dec. 23, 2010); EPA-HQ-OAR-2010-0885-0191 at 85-86, 91-92; EPA's Unopposed Mot. for Voluntary Vacatur and Remand 4-5, *NRDC v. EPA*, No. 09-1256 (D.C. Cir. Aug. 10, 2012); *see also* Order, *NRDC v. EPA*, No. 09-1256 (D.C. Cir. Sept. 19, 2012) (granting motion).

for reductions from outside areas without subjecting those areas to the full range of safeguards mandated by Congress for such areas.

Notably, moderate, serious, and severe areas can lawfully satisfy their RFP requirements even if they cannot reduce emissions of ozone-forming pollutants by the specified percentages. As EPA has explained, 75 Fed. Reg. at 80,423/1-2, the Act expressly provides that moderate and higher areas (except for extreme areas) can comply with the first, 15% RFP requirement despite reductions below 15% if they satisfy certain conditions amounting to: (1) requiring controls on a broader range of new and existing stationary sources than extreme areas must control; and (2) including in their plan to meet the RFP requirement “all measures that can feasibly be implemented in the area, in light of technological achievability” and “the measures that are achieved in practice by sources in the same source category in nonattainment areas of the next higher category.” 42 U.S.C. §7511a(b)(1)(A)(ii). Similarly, the Act expressly provides that serious and higher areas (except for extreme areas) can comply with the second, 3% RFP requirement despite reductions below that level if they satisfy the second condition listed above with respect to the plan to meet the second RFP requirement. *Id.* §7511a(c)(2)(B), (c)(2)(B)(ii); *see also* 75 Fed. Reg. at 80,423/1-2 (detailing requirements). Congress’s framework is rational: Congress intended to drive development of pollution controls, even when reducing emissions seemed difficult. *See, e.g., Union Elec. Co. v. EPA*, 427 U.S. 246, 256-57 (1976). Thus, Congress provided all the relief from the RFP requirements that it judged appropriate, and EPA has no authority on any ground to invent additional exceptions.

The context and purpose of the RFP requirements reinforce the clarity of the mandate that reductions to meet the RFP requirements must come from within the area. Congress used the phrase “in the area” in §7511a(b)(1)(B), for the RFP requirements, and in §7502(c)(1) and §7511a(b)(2)(A)-(C), for the RACT requirement. In that latter requirement, “in the area” unambiguously refers to the nonattainment area—indeed, the *NRDC* Court cited those provisions in so holding, 571 F.3d at 1256—and it is hardly credible that Congress would mean different things when it used the exact same phrase in successive paragraphs in the same statutory subsection.

Nor do the RFP and RACT requirements differ in some meaningful way that would render “in the area” ambiguous when used in the RFP requirements, but unambiguous in the RACT one. Congress enacted both requirements to drive moderate and higher nonattainment areas to clean up their air timely and surely. *South Coast*, 472 F.3d at 892. Recognizing the pre-1990 “discretion-filled approach” had not reduced ozone levels, Congress enacted Subpart 2 to avoid “gaming by the States, industry, and others.” H.R. Rep. No. 101-490 pt.1, at 229, *reprinted in* 2 Legislative History 3253. Indeed, one of the leading Senators advancing the 1990 Amendments highlighted that “[o]ne of the problems that has plagued the Clean Air Act is the

'gaming' that has continued in the form of paper trails starting everywhere and leading to no emission reductions." 1 Legislative History 789 (statement of Sen. Mitchell). Accordingly, Congress barred nonattainment areas from gaming cleanup requirements by claiming paper credit for emission reductions that may occur far away, may not occur at all, and may do nothing for the health and wellbeing of the people living in the nonattainment area. Interpreting the Act as authorizing EPA discretion to allow credit for out-of-area reductions would unlawfully and irrationally open the door to such paper games and run directly contrary to "the clear intent of Congress" "to limit EPA discretion." *South Coast*, 472 F.3d at 894-95; see also *id.* at 886-88.

Moreover, though policy arguments in favor of allowing out-of-area reductions to satisfy RFP are irrelevant because they conflict with Congress's policy choices, see, e.g., *NRDC*, 643 F.3d at 323, it is notable that allowing out-of-area reductions to satisfy RFP requirements has failed to secure the emission reductions necessary to timely attain the health-protective ozone standard. EPA's Inspector General previously found that allowing out-of-area reductions to satisfy RFP requirements leads to areas' cherry-picking emission reductions while ignoring emission increases and to areas' double-counting emission reductions. EPA-HQ-OAR-2003-0079-0849 at 31-33, 74-77, 79-80. EPA's Inspector General concluded that allowing out-of-area reductions to satisfy RFP requirements contributed to the failure of ozone nonattainment areas to reduce emissions of ozone-forming pollution and to their failure to attain the standard. *Id.* at 14.

If out-of-area reductions could again satisfy RFP requirements, the issues of which areas would qualify, how to count reductions that could theoretically affect multiple areas, and more, would again arise. Opportunities would spring back for gerrymandered boundaries, questionable modeling assumptions, and other ways in which areas could seek flexibility to do less to clean up the air their residents breathe. For example, an area could construct models purporting to show that a particular source hundreds of miles away should be linked to ozone problems in the area, draw a boundary encompassing only that source, and claim credit for reductions from just that source. That scenario revives old approaches that failed before, as both Congress and EPA's own Inspector General found. It cannot and should not be allowed again.²³

²³ For refutation of various arguments that have previously been advanced in efforts to justify allowing out-of-area reductions to satisfy RFP requirements, see EPA-HQ-OAR-2010-0891-0020 and the exhibits attached thereto.

G. New Source Review

1. Interprecursor Trading for Offsets.

The proposed rule unlawfully and arbitrarily authorizes interprecursor offsetting²⁴ (*i.e.*, offsetting of VOC emissions increases by NOx emission decreases, and vice versa) for purposes of meeting the Act's requirements for permitting new and modified major sources in ozone nonattainment areas.

a. Violation of the Express Terms of the Act.

The Act unambiguously bars the interprecursor offset trading proposed by EPA. Section 7503(c) provides (emphasis added) as follows:

(c) Offsets. – (1) The owner or operator of a new or modified major stationary source may comply with any offset requirement in effect under this part for increased emissions of any air pollutant only by obtaining emission reductions of such air pollutant from the same source or other sources in the same nonattainment area, except that the State may allow the owner or operator of a source to obtain such emission reductions in another nonattainment area if (A) the other area has an equal or higher nonattainment classification than the area in which the source is located and (B) emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located. Such emission reductions shall be, by the time a new or modified source commences operation, in effect and enforceable and shall assure that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air pollutant from the same or other sources in the area.

The statutory language could not be clearer that the offset requirement can only be satisfied by securing reductions in the same pollutant that will be emitted by the new or modified source. Congress was emphatic on this point: a source can comply with the offset requirement “for increased emissions of any air pollutant “only by obtaining emission reductions of such air

²⁴ We use interchangeably the phrases “interprecursor offsetting,” “interprecursor trading,” “interprecursor offset trading,” “interpollutant offsetting,” “interpollutant offset,” and “interpollutant offset substitution.”

pollutant.” *Id.* (emphasis added). And there must be assurance that “the total tonnage of increased emissions of the air pollutant...shall be offset by an equal or greater reduction...in the actual emissions of such air pollutant.” *Id.* (emphasis added). There is simply no way that this language can be read as allowing the offset requirement for an air pollutant to be satisfied by anything other than reductions in actual emissions of that same air pollutant, with the total tonnage of such reductions to be greater than or equal to the total tonnage of the pollutant that the new source proposes to emit.

Thus, the statutory offset requirement cannot be met by relying on reductions of NO_x to be offset by reductions of VOCs, or vice versa, as EPA proposes. Nor can the total tonnage of increased emissions of one of these pollutants (e.g., NO_x) be offset by a lesser tonnage in reductions by a different pollutant (e.g., VOCs) based on some predicted ratio of relative ozone reduction benefits. There must be “an equal or greater reduction...in the actual emissions of such air pollutant, not some lesser reduction that the state asserts will provide equivalent benefit.

Contrary to EPA’s assertion (at 81,296/2-3), the Act’s definition of “pollutant” as including precursors does not somehow allow EPA to treat precursors as being interchangeable with one another for purposes of NSR. To the contrary, the Act’s ozone-specific provisions make clear that offsetting emission reductions must be of the same pollutant whose emissions are being offset. For example, § 7511a(a)(4), governing SIP requirements for marginal ozone nonattainment areas, states:

(4) General offset requirement. – For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increased emissions of such air pollutant shall be at least 1.1 to 1.

42 U.S.C. §7511a(a)(4) (emphasis added). Pertinent language governing offset requirements for moderate, serious, severe, and extreme areas is substantively identical to the above. *Id.* §7511a(b)(5), 7511a(c)(10), 7511a(d)(2), 7511a(e)(1). In each case, the statute specifies that the offsets to be obtained for increased emissions of VOCs must consist of emission reductions “of such air pollutant.” Other provisions of the Act relating to NSR offsets likewise require that emissions increases subject to the offset requirement must be offset by emission reductions for the same pollutant. *E.g., id.* §7511a(c)(7), 7511a(c)(8), 7511a(e)(2).

Where Congress has intended to allow substitution of NO_x reductions for VOC reductions, it has expressly said so. For 3% annual RFP plans in serious and above ozone nonattainment areas, §7511a(c)(2)(C) expressly authorizes EPA to provide for such substitution under limited circumstances. *Id.* §7511a(c)(2)(C). It is therefore particularly telling that Congress

provided no such substitution authority for the purpose of satisfying the Act's nonattainment NSR offset requirement. Indeed, EPA itself has cited the substitution authority in §7511a(c)(2)(C) as grounds for concluding that EPA does not have discretion to authorize substitution in other circumstances. EPA-HQ-OAR-2010-0885-0191 at 188.

Contrary to EPA's assertion (at 81,296/2), there is not "a strong principle in the CAA that air agencies have discretion to choose from a range of options in designing plans to meet" the NAAQS. The Act is highly prescriptive as to the requirements for key portions of such plans, including NSR. As the D.C. Circuit held in *South Coast*, Congress adopted these prescriptive requirements because it became impatient with the discretion-filled approaches under earlier versions of the Act. 472 F.3d at 886-87. Allowing states and EPA to depart from Congress' prescriptive approach toward NSR offsets would flout Congress' intent. For all the foregoing reasons, and those stated in *NRDC*, 571 F.3d at 1278-79, EPA's proposal violates the plain language of the Act.

b. Violation of the Act's Anti-Backsliding Bar.

EPA's proposal to allow interprecursor offsetting also violates the Act's anti-backsliding requirements. The rule allows construction of major new sources and modifications under circumstances that were not previously allowed under EPA's rules, and allows increased emissions of a given ozone precursor that are not offset by greater reductions in emissions of that pollutant as required by the Act and as previously required by EPA rules.²⁵ The result is to unlawfully and arbitrarily authorize controls for that pollutant that are less stringent than required under the pre-existing NAAQS. The anti-backsliding violation is not somehow cured by statements in the proposal that the state and/or permit applicant will need to offer some submittal purporting to show that the assumed trading ratio is predicted to provide equivalent or greater air quality benefit for ozone. A rule that allows a new major source to be constructed and emit increased levels of a pollutant that would have been barred under prior rules is by definition less stringent.

²⁵ EPA's rules have long prohibited interprecursor offsetting except for PM_{2.5}. 40 C.F.R. §51.165(a)(11) (2013); 40 C.F.R. Pt. 51, App. S §IV.G.5 (2013). EPA cites its prior Economic Incentive Program guidance ("EIP Guidance"), but that did not override the bar on interprecursor trading in the Act or EPA's rules. To the contrary, the EIP Guidance made clear that it was "non-binding policy," non-final action and does not supersede the statute or EPA's NSR rules. EIP Guidance at 5, 10, 12, 254.

Moreover, EPA's proposal would replace an assured level of emissions offset—a tonnage of actual emissions greater than the tonnage of increased emissions—with an approach relying on vagaries of attempts to predict ozone benefits from localized emission reductions of different pollutants—predictions that are complex and subject to manipulation. The rule text itself does not specify the details of techniques that must be used for such a showing, and it is impossible to discern from the proposal what the trading ratios will be in any nonattainment area or sub-areas. EPA has offered a draft interprecursor trading technical guidance document (“Technical guidance for demonstration of inter-precursor trading (IPT) for ozone in the Nonattainment New Source Review Program,” or TGD), but that guidance is by its terms non-final and nonbinding. Moreover, the TGD contains no clear, minimum requirements for the showing of equivalent ozone benefits. It allows states, sources, and EPA regional offices discretion to decide how they will make the demonstration. The TGD also is riddled with vague and subjective criteria for both default and case-by-case equivalency determinations. And EPA is not requiring states to adhere to the TGD at all. 81 Fed. Reg. 81,297/3 n.61.

The result of all this would be replacement of the Act's uniformly applicable and verifiable ton-for-ton offset mandate (or for ozone precursors, a greater than ton-for-ton offsets in accordance with the applicable ratio for the area's classification) with a hodge-podge of inter-pollutant calculation methods and trading ratios that differ from city to city and sometimes from source to source and from time to time. EPA offers no empirical evidence that such a jumbled approach will always assure equivalent ozone benefits to the one specified by Congress, and it is irrational to so presume. That the rule requires EPA concurrence with trading ratios hardly salvages the proposal because there is no requirement for consistency among the ratios or how they are calculated: Thus EPA can—consistent with the rule—concur in widely divergent approaches across nonattainment areas and sources. Further, the reality is that EPA lacks the resources to conduct effective oversight of the development of application of IPT ratios across all the states and air agencies. A 2012 GAO report found that EPA lacked complete information on NSR compliance even by fossil fuel electric generating units – among the largest sources subject to NSR. GAO, *EPA Needs Better Information on New Source Review Permits*, GAO-12-590 (June 2012). Among other things, the report found: a) that EPA's failure to maintain data on NSR permits in a complete and centralized source of information “limits the agency's ability to assess the impact of NSR”; and, b) EPA does not compile data on which permitting authorities address EPA's comments, which “makes it difficult for EPA to measure the impact of its comments and may impede its ability to assess how state and local permitting agencies may differ from EPA in their interpretation of NSR requirements.” *Id.* at 7; *see also id.* at 9-12.

c. Failure to Assure Equivalent or Greater Ozone Reduction Benefit.

Even if it were not flatly barred by the Act, EPA's proposal to allow interprecursor offsetting is unlawful and arbitrary because it does not assure equivalent or greater ozone reduction benefits to those achieved by implementing the statute as written—that is, by requiring NO_x increases to be more than offset by greater NO_x reductions, and VOC increases to be more than offset by greater reductions in VOCs. The proposal nowhere finds or demonstrates that any specific trading ratios will be sufficient to assure equivalent or greater ozone reductions in any particular ozone nonattainment areas, nor does it specify with precision the methods and supporting data required to make such a demonstration. The rule text does not so specify, and the preamble merely says that the state should submit a description of the model(s) used and an accompanying modeling demonstration. There is no specification of what model(s) must be used, no requirements for the assumptions upon which such models can rely, no requirements for the location and adequacy of monitored ozone and emissions data used for model input, and no specification of requirements for validation of model results or the ultimate selection of a trading ratio. The proposal references the TGD, but as noted above, that document fails to set out the minimum, mandatory requirements to assure that trading ratios do in fact accurately reflect reality. Thus, states and sources may argue that the rule allows states discretion to choose whatever modeling approaches they prefer and use whatever methods they prefer to set the ratios. Such an outcome would arbitrarily flout the purposes of nonattainment NSR.

Moreover, while modeling is almost certainly essential to determine the relative ozone reduction benefits of VOC versus NO_x reductions, it does not demonstrate whether emissions will be reduced or stay the same. The latter requires a separate comparison of pre-application emissions with emissions at the time the source will commence operation. Further, the proposal fails to specify or explain how the establishment of default ratios or case-by-case ratios will ensure that each and every trade will reduce emissions as the Act requires.

The proposal also fails to expressly bar the use of banked credits to satisfy offsets in interprecursor trades. There is no conceivable basis for determining that such credits can be used for interprecursor trading, since there is no basis for finding that credits banked years (or in some cases decades) ago will provide equivalent (or indeed any) ozone reduction benefits today. Moreover, EPA is proposing to allow IPT ratios to be calculated for subareas within a nonattainment area. Suppose a source in such a situation secures greater offset credit than it needs under the IPT ratio. What is to prevent those credits from being used outside the subarea to offset in another part of the nonattainment area where a different ratio is warranted?

Additional flaws in EPA's IPT proposal are identified in the attached analysis by Ranajit Sahu, incorporated herein by reference.

For all the foregoing reasons, EPA's proposal to allow interprecursor offsets is illegal and arbitrary.

2. SIP Revision Deadlines.

In proposed 40 C.F.R. §51.1314, EPA proposes to give nonattainment areas three years to adopt or revise NSR SIPs. 81 Fed. Reg. at 81,314/3. This is contrary to statute: the Act gives marginal areas two years. 42 U.S.C. §7511a(a)(2)(C).

H. Contingency Measures.

EPA acknowledges the 9th Circuit's *Bahr v. EPA* decision, which holds that states cannot rely on already-implemented measures as "contingency" measures to be implemented if an area fails to satisfy RFP or attain, but declines to abide by it. 81 Fed. Reg. at 81,302/3-03/2. *Bahr* is correctly decided, and EPA must follow it with regard to contingency measures required by §§7502(c)(9), 7511a(c)(9), and 7511a(e)(5). We hereby adopt the reasoning in *Bahr*. 836 F.3d 1218, 1235-37 (9th Cir. 2016) (petition for rehearing *en banc* denied Jan. 9, 2017).

EPA's position on contingency measures is particularly irrational with regard to attainment deadlines. Where an area fails to attain timely despite the reductions from contingency measures, those measures do not represent any "extra" reductions that were not already needed.

I. International Transport: EPA Must Require States Seeking to Invoke §7509a(b) as a Basis for Avoiding Bump-Ups to Establish That They Have Adopted All Reasonably Available Control Measures, Including Reasonably Available Control Technology Requirements, Consistent with §7502(c)(1).

EPA correctly proposes to require that states seeking to invoke §7509a(b) as a basis for avoiding mandatory reclassification under §7511(b)(2) upon failure to timely attain must implement all RACM, including RACT. As explained above in Part III.C, EPA must require RACM, including RACT, for all nonattainment areas, including those designated "marginal."²⁶ Because §7511a(a)(2)(A), which establishes relevant requirements for marginal nonattainment

²⁶ See supra Part III.C.

areas, when read in conjunction with §7502(b), plainly requires the imposition of RACM, including RACT, for marginal nonattainment areas, the RACM and RACT requirements would apply to nonattainment areas seeking to avoid bump-ups through the invocation of §7509a(b).

Even if this were not the case for marginal areas in general, EPA must require that states with marginal areas seeking to invoke §7509a(b) adopt all RACM and RACT. Failure to impose this requirement in this circumstance would enable a state with a nonattainment area initially classified as “marginal” to indefinitely avoid imposition of RACM and RACT, even where such area fails to attain the NAAQS. Such a result would be contrary to the Clean Air Act requirement that areas attain the primary NAAQS “as expeditiously as practicable.” 42 U.S.C. §7511(a)(1). It would also be inconsistent with a “primary goal” of the Clean Air Act, namely, to promote “reasonable...governmental actions...for pollution prevention,” *id.* §7401(c), and with the general construct that nonattainment SIPs “shall provide for the implementation of all reasonably available control measures as expeditiously as practicable,” *id.* §7502(c)(1). It would thus ultimately defeat the carefully structured classification and attainment date scheme for ozone nonattainment areas set forth in Subpart 2.

Recognizing that in limited circumstances, emissions emanating from outside the United States may prevent an area from attaining the NAAQS despite its best efforts, §7509a creates a limited exception to the SIP submittal and approval requirements that typically apply to nonattainment areas. Specifically, §7509a(a) requires that EPA approve the submission of an attainment demonstration for a nonattainment area if the state has submitted a SIP that “meets all the requirements applicable to it” under the Clean Air Act other than the requirement that the plan “demonstrate attainment and maintenance of the relevant [NAAQS]” by the attainment date, 42 U.S.C. §7509a(a)(1), and the submitting state “establishes to the satisfaction of the Administrator” that the SIP would be adequate to attain and maintain the relevant NAAQS by the attainment date “but for emissions emanating from outside of the United States.” *Id.* §7509a(a)(2).

Section 7509a further provides that, in the case of ozone, “any State that establishes to the satisfaction of the Administrator that...such State would have attained the national ambient air quality standard for ozone by the applicable attainment date, but for emissions emanating from outside of the United States,” shall not be subject to three specific provisions of the Clean Air Act: §§7511(b)(2)²⁷ (establishing mandatory requirement that EPA bump up nonattainment

²⁷ Although the text of §7509a(b) identifies “7511(a)(2),” EPA explains in the preamble that its longstanding interpretation is that §7509a’s reference to “7511(a)(2)” is erroneous and was intended to be a reference to §7511(b)(2). 81 Fed. Reg. at 81,303/3 n.76.

areas that fail to attain by their applicable attainment date); 7511(a)(5) (providing states the ability to apply for limited extensions of applicable attainment dates based on recent improvements in air quality); and 7511d (establishing enforcement provisions for severe and extreme ozone nonattainment areas for failure to attain).

Section 7509a does not alter the designation process or change the attainment date for nonattainment areas impacted by emissions from outside the United States. *See* 42 U.S.C. §7509a (not referencing Clean Air Act provisions pertaining to designations or attainment dates). Nor does §7509a alter the SIP submittal requirements that apply to nonattainment areas, other than providing that EPA will approve a SIP where a state “establishes to the satisfaction of the Administrator” that the SIP would be adequate to timely attain and maintain the relevant NAAQS “but for emissions emanating from outside of the United States.” *Id.* §7509a(a)(2). Importantly, §7509a does not purport to alter the basic construct that nonattainment SIPs “shall 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.” *Id.* §7502(c)(1).

EPA must finalize its proposal to require that all ozone nonattainment areas, including marginal nonattainment areas, must implement RACM (including RACT) in order to make a satisfactory demonstration pursuant to §7509a(b) and avoid §7511(b)(2)’s mandatory reclassification requirements. A contrary result would conflict with the text, structure, and goals of the Clean Air Act for at least three reasons.²⁸

First, the Clean Air Act requires attainment of the primary ozone NAAQS “as expeditiously as practicable.” 42 U.S.C. §7511(a)(1) (“the primary standard attainment date for ozone shall be as expeditiously as practicable” but not later than dates set forth in table 1); *accord id.* §7502(a)(2)(A) (requiring that attainment dates with respect to NAAQS generally “shall be the date by which attainment can be achieved as expeditiously as practicable,” but no later than certain time frames set forth in that section). Failing to require marginal ozone nonattainment areas influenced by emissions of ozone precursors emanating from outside the United States to implement RACM—measures that are by definition “reasonably available” —

²⁸ The reasons given above, in Part III.C, for why EPA must make RACT and RACM requirements for all marginal areas provide further support for EPA’s proposal to require all areas seeking to invoke §7509a(b) to have adopted all RACM.

would delay attainment of the NAAQS and prevent attainment “as expeditiously as practicable.” Indeed, as EPA observed, 81 Fed. Reg. at 81,304/2, if RACM (including RACT) were not required for marginal areas seeking to invoke §7509a(b), such areas could indefinitely avoid implementation of RACM and as a result may never attain the primary ozone NAAQS. Such a result is irreconcilable with the plain text requirement that nonattainment areas attain “as expeditiously as practicable.”

Second, implementation of reasonably available pollution prevention measures is a “primary goal” of the Clean Air Act and a core element of nonattainment area planning. The opening provision of the Act establishes as a “primary goal” of the Act, “to encourage or otherwise promote reasonable Federal, State, and local government action...for pollution prevention.” 42 U.S.C. §7401(c). Section 7502, which sets forth plan provisions for nonattainment areas in general, provides that such provisions “shall provide for the implementation of” all RACM (including RACT) “as expeditiously as practicable.” Failure to require that a nonattainment area implement RACM, including RACT, as a precondition of using §7509a to avoid mandatory reclassification under §7511(b)(2) is inconsistent with both the construct broadly applicable to nonattainment area and the foundational goals of the Act.

Finally, failure to require marginal nonattainment areas to implement RACM and RACT prior to invoking §7509a(b) would upset the careful scheme established in Subpart 2 for achieving timely attainment of the NAAQS in ozone nonattainment areas. Where marginal areas fail to timely attain, they typically must be reclassified to moderate nonattainment, which carries with it an express requirement to, among other things, implement measures to achieve an at least 15% reduction in ozone precursors from baseline emission levels and to implement RACT for existing sources. *See* 42 U.S.C. §7511a(b)(1)(A)(i), (b)(2). It would be anomalous and contrary to the scheme established in Subpart 2 to allow marginal ozone nonattainment areas to persist indefinitely in nonattainment without implementing the basic reasonable available control measures applicable to all other nonattainment areas, particularly given that such measures could improve air quality and potentially attain the NAAQS by doing so. EPA’s proposal recognizes this fact and appropriately requires implementation of RACM, including RACT, for all ozone nonattainment areas—including those classified as marginal—prior to invoking §7509a(b).

J. Emission Inventories.

Commenters support EPA’s proposal to update the Air Emissions Reporting Requirements rule consistent with the ozone major source thresholds. 81 Fed. Reg. at 81,298/1-3. Correctly aligning reporting requirements with the statute will assist in ensuring needed pollution reductions actually occur.

K. Other Policies and Programs.

EPA discusses the potential for using energy efficiency, renewable energy, land use planning, and travel efficiency strategies as SIP measures. 81 Fed. Reg. at 81,305/1-06/2. Such measures may be allowed only if they otherwise comply with the requirements for SIP control measures. Like all SIP-approved control measures, the emission reductions claimed in these measures must meet SIP creditability criteria. Emission reductions must be quantifiable, surplus, permanent and enforceable. Control measures that meet these requirements should be available for use.

IV. SPECIFIC REGULATORY TEXT.

The proposed text for Option 1 for 40 C.F.R. §51.1119 refers to non-existent “§51.1305(c)(2).” 81 Fed. Reg. at 81,308/3. It should be “§51.1305(d)(2).”

The proposed regulatory text suggests that 40 C.F.R. §51.1300(p) would only be adopted under Option 1. 81 Fed. Reg. at 81,309/2. But 40 C.F.R. §51.1305(a) repeatedly refers to §51.1300(p), which suggests under either Option 1 or 2 EPA must adopt §51.1300(p). 81 Fed. Reg. at 81,311/1-2.

The proposed text for 40 C.F.R. §51.1305(a)(3) says that in orphan nonattainment areas, “If the area’s nonattainment NSR provisions are removed from the active portion of the SIP for the area, the area’s approved PSD SIP shall be considered to satisfy the state’s obligations with respect to the area’s maintenance of the 2015 ozone NAAQS pursuant to CAA section 110(a)(1).” 81 Fed. Reg. at 81,311/2. What about if NSR remains in the active part of the SIP?

The proposed text for 40 C.F.R. §51.165(a)(12) is garbled, referring to “the requirements of this section applicable to major stationary sources and major modifications of ozone.” 81 Fed. Reg. at 81,316/3.

List of Attachments

1. EPA, Overview of EPA's Updates to the Air Quality Standards for Ground-Level Ozone, https://www.epa.gov/sites/production/files/2015-10/documents/overview_of_2015_rule.pdf.
2. Alan Krupnick et al., Res. for the Future, Issue Brief 15-03, *Defining the Unknown: A Look at the Cost of Tighter Ozone Standards* (Sept. 2015).
3. Jeremy Fisher et al., Synapse Energy Economics, *Clearing Up the Smog: Debunking Industry Claims That We Can't Afford Healthy Air* (Sept. 2015).
4. EPA, 8-Hour Ozone (2008) Maintenance Areas (Redesignated from Nonattainment) by State/County/Area (Sept. 22, 2016), <https://www3.epa.gov/airquality/greenbook/hmcty.html>.
5. EPA, Federal Register Notices Related to 8-Hour Ozone (2008) Designations and Classifications (Sept. 22, 2016), <https://www3.epa.gov/airquality/greenbook/hfrnrpt1.html>.
6. Opening Br. of Environmental Pet'rs, *South Coast Air Quality Mgmt. Dist. v. EPA*, No. 15-1115 (D.C. Cir. Dec. 8, 2016).
7. Reply Br. of Environmental Pet'rs, *South Coast*, No. 15-1115 (D.C. Cir. Dec. 8, 2016).
8. Respondents' Unopposed Mot. for Voluntary Remand with Vacatur of Specific Portions of the Rulemaking at Issue, *South Coast Air Quality Mgmt. Dist. v. EPA*, No. 15-1115 (D.C. Cir. July 21, 2016).
9. Order, *South Coast Air Quality Mgmt. Dist.*, No. 15-1115 (D.C. Cir. Aug. 29, 2016).
10. Amending Order, *South Coast Air Quality Mgmt. Dist.*, No. 15-1115 (D.C. Cir. Oct. 17, 2016).
11. Brief of Environmental Movant-Intervenors, *South Coast Air Quality Mgmt. Dist.*, No. 15-1115 (D.C. Cir. Dec. 8, 2016).
12. EPA, 8-Hour Ozone (2008) Nonattainment Areas (Sept. 22, 2016), <https://www3.epa.gov/airquality/greenbook/hnc.html>.
13. EPA, Ozone Design Values, https://www.epa.gov/sites/production/files/2016-07/ozone_designvalues_20132015_final_07_29_16.xlsx.

14. EPA, Comments Re: Revisions to Dallas-Fort Worth Attainment Demonstration for the 2008 Eight-Hour Ozone Nonattainment Area, Project Number 2013-015-SIP-NR (Feb. 11, 2015).
15. TCEQ, Dallas-Fort Worth Attainment Demonstration State Implementation Plan Revision for the 2008 Eight-Hour Ozone Standard Nonattainment Area, Appx. D Conceptual Model for the DFW Attainment Demonstration SIP Revision for the 2008 Eight-Hour Ozone Standard (Project No. 2013-015-SIP-NR) (June 3, 2015), https://www.tceq.texas.gov/assets/public/implementation/air/sip/dfw/dfw_ad_sip_2015/AD/Adoption/DFW_SIP_Appendix_D_060315.pdf.
16. TCEQ, 2014 Point Source Emissions Inventory, <https://www.tceq.texas.gov/airquality/point-source-ei/psei.html>.
17. Tai et al., Task 19, DFW APCA Run for 2009 with East Texas EGU Controls, Environ (June 22, 2006).
18. Drs. Mahdi Ahmadi and Kuruvilla John, North Texas Ozone Attainment Initiative Project, (Nov. 2015), http://www.nctcog.org/trans/committees/aqtc/110615/Item_8.pdf.
19. EPA, Webinar to Discuss EPA's Information Release on Interstate Transport for the 2008 Ozone NAAQS (Feb. 5, 2015).
20. Air Prot. Branch, Env'tl. Prot. Div., Ga. Dep't of Natural Res., *Georgia's State Implementation Plan for the Atlanta Ozone Non-attainment Area* (July 17, 2001), https://permanent.access.gpo.gov/websites/www.dnr.state.ga.us/dnr/environ/plans_files/plans/sip_narrative.pdf.
21. RECLAIM Board Package (Dec. 4, 2015), <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2015/2015-dec4-030.pdf>.
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23. Potomac Economics, *2014 State of the Market Report for the New York ISO Markets* (May 2015), http://www.nyiso.com/public/webdocs/markets_operations/documents/Studies_and_Reports/Reports/Market_Monitoring_Unit_Reports/2014/NYISO2014SOMReport_5-13-2015_Final.pdf.
24. Thomas O. McGarity, *Missing Milestones: A Critical Look at the Clean Air Act's VOC Emissions Reduction Program in Nonattainment Areas*, 18 Va. Env'tl. L.J. 41 (1999).

25. EPA's Unopposed Mot. for Voluntary Vacatur and Remand, *NRDC v. EPA*, No. 09-1256 (D.C. Cir. Aug. 10, 2012).
26. Order, *NRDC v. EPA*, No. 09-1256 (D.C. Cir. Sept. 19, 2012).
27. EPA, *Improving Air Quality with Economic Incentive Programs* ("EIP Guidance") (Jan. 2001), <https://www.epa.gov/sites/production/files/2015-07/documents/eipfin.pdf>.
28. GAO, *EPA Needs Better Information on New Source Review Permits*, GAO-12-590 (June 2012).
29. Ranajit Sahu, *Comments on the Technical guidance for demonstration of interprecursor trading (IPT) for ozone in the Nonattainment New Source Review Program (Draft 10/4/2016)* (Feb. 13, 2017).