because it implements a previously promulgated federal standard.

I. Executive Order 13211: Actions Concerning Regulations 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) and 1 CFR Part 51


The agency identified no equivalent standards for EPA Methods 2E, 21, and 25C. However, one VCS was identified as an acceptable alternative to EPA Method 3A.

The VCS ASTM D6522–11, “Standard Test Method for the Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers,” is an acceptable alternative to EPA Method 3A when used at the wellhead before combustion. It is advisable to know the flammability and check the lower explosive limit of the flue gas constituents, prior to sampling, in order to avoid undesired ignition of the gas. The results of ASTM D6522–11 may be used to determine nitrogen oxides and carbon monoxide emission concentrations from natural gas combustion at stationary sources. This test method may also be used to monitor emissions during short-term emission tests or periodically in order to optimize process operation for nitrogen oxides and carbon monoxide control. The EPA’s review, including review of comments for these 15 methods, is documented in the memorandum Voluntary Consensus Standard Results for Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, 2016, which is available in the docket for the 2016 MSW Landfills EG (Docket ID Item No. EPA–HQ–OAR–2014–0451–0206).

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 EPA has determined that because this action increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low-income, or indigenous populations. To the extent that any minority, low-income, or indigenous subpopulation is disproportionately impacted by landfill gas emissions due to the proximity of their homes to sources of these emissions, that subpopulation also stands to see increased environmental and health benefit from the emission reductions called for by this action. The results of the demographic analysis are presented in the Ef Screening Report for Municipal Solid Waste Landfills, July 2016, a copy of which is available in the 2016 MSW Landfills EG docket (Docket ID Item No. EPA–HQ–OAR–2014–0451–0223).

Dated: August 14, 2019.

Andrew R. Wheeler, Administrator.

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FR Doc. 2019–17822 Filed 8–21–19; 8:45 am]


Error Correction of the Area Designations for the 2010 1-Hour Sulfur Dioxide (SO2) Primary National Ambient Air Quality Standard (NAAQS) in Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County in Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to correct an error in the designations for three areas in Texas: Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County. On December 13, 2016, portions of Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County were designated as nonattainment for the 2010 primary sulfur dioxide (SO2) National Ambient Air Quality Standard (NAAQS). Under our Clean Air Act (CAA or Act) authority to correct errors, the EPA is proposing that we erred in not giving greater weight to Texas’ preference to characterize air quality through monitoring, and steps undertaken by Texas to begin monitoring in these three areas, when considering all available information; in relying on available air quality analyses; and in making the initial designations that the EPA recognizes included certain limitations; or a combination of these two issues. Therefore, to correct these errors, the EPA is proposing that the previously designated nonattainment areas in Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County in Texas each be revised to be designated as unclassifiable.

DATES: Comments must be received on or before September 23, 2019. Please refer to SUPPLEMENTARY INFORMATION for additional information on the comment period.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2014–0464, at http://www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from regulations.gov. The EPA may publish any comment received to our public docket. Do not submit electronically any information you consider to be Confidential.
I. What is the purpose of this action?

A. CAA Legal Authority

Section 110(k)(6) of the CAA, 42 U.S.C. 7410(k)(6), as amended in 1990, provides: “Whenever the Administrator determines that the Administrator’s action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the state. Such determination and the basis thereof shall be provided to the state and the public.” (Emphasis added.)

We interpret this provision to authorize the agency to make corrections to a promulgated area designation when it is shown to our satisfaction (or we discover) that (1) we clearly erred by failing to consider or by inappropriately considering information made available to the EPA at the time of the promulgation, or the information made available at the time of promulgation is subsequently demonstrated to have been clearly inadequate, and (2) other information persuasively supports a change in the action. See, e.g., 57 FR 56762, 56763 (November 30, 1992) (correcting certain designations, boundaries, or classifications for a variety of NAAQS promulgated in agency actions shortly after the 1990 Clean Air Act amendments).

B. Background on the Designations of Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County in Texas

On June 2, 2010, the EPA Administrator signed a notice of final rulemaking that revised the primary SO\textsubscript{2} NAAQS (75 FR 35520 (June 22, 2010)) after review of the existing primary SO\textsubscript{2} standards promulgated on April 30, 1971 (36 FR 8187). The EPA established the revised primary SO\textsubscript{2} NAAQS at 75 parts per billion (ppb), which is attained when the 3-year average of the annual 99th percentile daily maximum 1-hour average concentrations does not exceed 75 ppb. 40 CFR 50.17(a)-(b).

The process for designating areas following promulgation of a new or revised NAAQS is contained in the CAA section 107(d) (42 U.S.C. 7407(d)). 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 (42 U.S.C. 7407(d)(1)(A)). The EPA considers these recommendations when fulfilling 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 (42 U.S.C. 7407(d)(1)(B)).

After invoking a 1-year extension of the deadlines to designate areas, as provided for in section 107(d)(1)(B) of the Act, the EPA published an initial round of SO\textsubscript{2} designations for certain areas of the country on August 5, 2013 (referred to as “Round 1”) (78 FR 47191). Following the initial designations, three lawsuits were filed against the EPA in different U.S. District Courts, alleging the agency had failed to perform a nondiscretionary duty under the CAA by not designating all portions of the country by the June 2, 2013, statutory deadline. The state of Texas was a plaintiff or plaintiff-intervenor in two of those cases. In one of those cases (Sierra Club and NRDC v. McCarthy, No. 13–cv–3953), the U.S. District Court for the Northern District of California on March 2, 2015, entered an enforceable order for the EPA to complete the area designations by three specific deadlines according to the court-ordered schedule. The court order required the EPA to designate areas containing sources meeting certain criteria no later than July 2, 2016. The three Texas areas the EPA designated that are subject of this proposed action contained sources meeting those criteria.

To meet the first court-ordered deadline for the next set of SO\textsubscript{2} designations, known as “Round 2,” the final action designating 61 additional areas was signed on June 30, 2016, and a supplemental final action including the designations for portions of Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County, was signed on November 29, 2016.

1 By a series of stipulations of the parties in Sierra Club and NRDC v. McCarthy and orders of the Court, the deadline for the three areas in Texas that are the subject of this proposed action, and a fourth
implementation in time for those areas’ designations.

In Freestone County, Big Brown Steam Electric Station ("Big Brown") was the largest source of SO\(_2\) emissions in the area, but recently and permanently suspended operations as of January 2018, and the majority of its New Source Review (NSR) permits were voided on March 29, 2018, and its operating permit was voided August 3, 2018. In Titus County, Monticello Steam Electric Station ("Monticello") was the largest source of SO\(_2\) emissions in the area, but recently and permanently suspended operations as of February 2018 and the majority of its NSR permits were voided on February 14, 2018 and its operating permit was voided on August 3, 2018. In Rusk County, Martin Lake Electric Station is the largest source of SO\(_2\) emissions in the area and continues to operate. All three facilities are owned by Vistra Energy Corp and its subsidiary Luminant ("Vistra Energy").

In 2011, following the promulgation of the revised NAAQS, the state of Texas initially recommended an unclassifiable designation for Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County since, at the time, there were not any SO\(_2\) monitors in these counties. In September 2015, Texas updated its recommendation to unclassifiable/attainment for areas of the state where there were no monitors, including the above counties. Texas stated its position that ambient air monitoring data were the appropriate information for use in the designation process. In December 2015, prior to the EPA’s notification to the Governor of our intended designations, we received air quality modeling from the Sierra Club for these three areas, but we did not receive any other monitoring, modeling, or technical information from Texas or Vistra Energy. In February 2016, the EPA notified Texas of our intended designations of nonattainment for three separate areas covering portions of Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County.

"Round 2 Supplement") and published at 81 FR 45039 (July 12, 2016) and 81 FR 89870 (December 13, 2016), respectively. To meet the second court-ordered deadline, all remaining undesignated areas, except those where a state has installed and begun timely operating a new SO\(_2\) monitoring network meeting the EPA specifications referenced in the EPA’s SO\(_2\) Data Requirements Rule, were designated on December 21, 2017, with a supplemental amendment on March 28, 2018 (referred to as "Round 3") and published at 83 FR 10988 (January 9, 2018) and 83 FR 14597 (April 14, 2018), respectively. Pursuant to the court-ordered schedule, the EPA must complete SO\(_2\) designations for the remaining areas of the country by December 31, 2020 (referred to as "Round 4").

On August 21, 2015 (80 FR 51052), the EPA separately promulgated an SO\(_2\) air quality data rule. The Data Requirements Rule (DRR) requires state air agencies to provide additional monitoring or modeling information to characterize SO\(_2\) air quality in areas containing SO\(_2\) emissions sources either meeting certain criteria or that have otherwise been listed under the DRR by the EPA or state air agencies. In lieu of otherwise being listed under the DRR by the EPA, Texas is required to complete characterization of air quality in areas

2 The remaining undesignated portions of the five Texas counties that are the subject of this notice were designated attainment/unclassifiable in Round 3.

3 See docket item number EPA–HQ–OAR–2014–0464–0455 for a list of Big Brown’s voided NSR permits. Big Brown’s voided operating permit is also located in Docket 41–OAR–2014–0464.
5 Any remaining NSR or material handling permits for Big Brown and Monticello will only be maintained while the facilities complete closure activities related to coal piles, silos, conveyors, and other shutdown tasks.

7 https://www.epa.gov/sites/production/files/2016-11/documents/rc_scm2_comments_received_document_4_1x_sources_final_0.pdf.

area, Milam County, which is not part of this proposed action, was extended to November 29, 2016.
Texas Intended TSD \textsuperscript{10} and Texas Final TSD \textsuperscript{11} from Round 2. The final nonattainment designations were based on EPA’s analysis of all the air quality modeling submitted by Vistra Energy and Sierra Club, as well as consideration of comments submitted by Texas.

On June 29, 2016, timely meeting its DRR option selection deadline, Texas separately communicated to the EPA that it had chosen the monitoring pathway for these areas to meet its obligations under that rule to characterize air quality for the sources in these areas that were listed under the DRR. In Texas’ annual monitoring network plan for 2016, the state indicated that it intended to site new \( \text{SO}_2 \) monitors in any Round 2 area that the EPA designated as nonattainment. Following up on this intention, in its 2017 annual monitoring network plan, Texas included new proposed \( \text{SO}_2 \) monitoring sites in Freestone, Titus, and Rusk Counties to assess air quality in the three new \( \text{SO}_2 \) nonattainment areas involving Vistra Energy sources. Texas referred to the 2016 Sierra Club modeling analysis, among other information, to inform their proposed siting of the new monitors, but stated: “The use of the 2016 Sierra Club modeling analysis for possible monitor placement decisions does not infer TCEQ’s concurrence with the use of this modeling analysis for any other purpose.” \textsuperscript{12} The EPA approved the three monitor siting proposals in an August 10, 2017, letter to TCEQ. \textsuperscript{13}

On February 13, 2017, the state of Texas, TCEQ, and Vistra Energy and its subsidiary companies filed petitions for judicial review of the Round 2 Supplement in the Fifth Circuit Court of Appeals. \textsuperscript{14} On that same day, Vistra Energy submitted a request for an administrative stay of the Round 2 Supplement. On September 21, 2017, the EPA responded to Vistra Energy’s February 2017 petition for reconsideration by indicating an intent to undertake an administrative action with notice and comment to revisit the nonattainment designations for the three areas. On October 12, 2017, the Fifth Circuit Court of Appeals granted EPA’s motion to place the consolidated challenges to the Round 2 Supplement in abeyance on this basis. In December 2017, TCEQ submitted a petition for reconsideration and Vistra Energy submitted additional information to support their February 2017 petition for reconsideration. Both submissions in December 2017 provided information regarding the planned retirements of the Big Brown (Freestone/Anderson Counties) and Monticello (Titus County) facilities. Since December 2017, both the Big Brown and Monticello power plants have ceased operations and surrendered their operating permits.

In November 2017, Texas sited an \( \text{SO}_2 \) monitor at the Martin Lake (Rusk/ Panola Counties) power plant. Texas also sited and began operating a monitor around the Big Brown power plant (Freestone/Anderson Counties) on October 30, 2017. The Big Brown power plant shut down in February 2018; however, Texas is currently continuing to operate the monitor. The EPA anticipates that these monitors will not have 3 years of monitoring data necessary to fully evaluate compliance with the \( \text{SO}_2 \) NAAQS until the end of calendar year 2020. Texas also planned to site a monitor around the Monticello power plant (Titus County), but once the retirement of the facility had been announced, the monitor was not installed.

\textbf{C. Purpose of This Action}

In this document, the EPA is proposing that we erred in failing to give greater weight to the state of Texas’ preference to use ambient air monitors to characterize \( \text{SO}_2 \) air quality in their state for purposes of the designation, when we considered all available information at the time of designation. The EPA has consistently recognized appropriately sited ambient air monitoring data as relevant information for determining an area’s designation for the 2010 1-hour \( \text{SO}_2 \) NAAQS. \textsuperscript{15} The EPA’s DRR gave states the ability to choose whether to characterize areas around listed sources through modeling or monitoring. It was also the EPA’s stated intention in developing the overall implementation strategy for the 2010 \( \text{SO}_2 \) NAAQS to use the air quality characterizations required under the DRR to inform area designations, where those characterizations were conducted in time to inform the EPA’s designations rounds. \textsuperscript{16} However, areas required to be designated in Round 2 by the first court-ordered deadline of July 2, 2016, generally were designated before the air quality characterization information required under the DRR became available, and were therefore to be designated regardless of the state’s choice of air quality characterization, including those states that planned to begin operating a new monitoring network in such an area in 2017 in accordance with the DRR.

Since 2011, the state of Texas has consistently communicated to the EPA their support of ambient air monitoring data as the appropriate information for use in the designations decisions process for areas in Texas. \textsuperscript{18} Because the


\textsuperscript{12} Appendix E: Sulfur Dioxide Data Requirements Rule Monitor Placement Evaluations, from 2017 TCEQ Annual Monitoring Network Plan.

\textsuperscript{13} TCEQ subsequently deployed \( \text{SO}_2 \) monitors near Brazosport on October 30, 2017; and near Martin Lake on November 1, 2017. No monitors where deployed in the area around Monticello as the source was retired on February 8, 2018 (see 2018 TCEQ Annual Monitoring Network Plan).

\textsuperscript{14} Sierra Club additionally filed a petition for judicial review of this action in the D.C. Circuit Court of Appeals, which was transferred to the Fifth Circuit on November 2, 2017, and consolidated with the pending petitions.


\textsuperscript{16} Examples of these communications include: TCEQ’s 2011 Comments on Guidance for 1-Hour \( \text{SO}_2 \) NAAQS SIP Submissions at https://www.regulations.gov/document?D=EPA-HQ-OAR-2010-0359-0034; TCEQ’s 2014 comments regarding Data Requirements Rule for the 1-Hour Sulfur Dioxide Primary NAAQS—Proposed Rule, 75 FR 4474 (May 13, 2014) (“[T]he air quality data developed by the states in accordance with this rulemaking would be used by the EPA in future rounds of area designations for the 1-hour SO\(_2\) NAAQS.”)

\textsuperscript{17} See “Next Steps on Designing Areas and Implementing the 1-Hour \( \text{SO}_2 \) Standard—EPA Webinar for State, Local, and Tribal Air Agencies,” February 13, 2013, page 2. https://archive.epa.gov/apti/video/web/pdf/presentation-7.pdf; Data Requirements Rule for the 1-Hour Sulfur Dioxide Primary NAAQS—Proposed Rule, 77 FR 4474 (May 13, 2014) (“[T]he air quality data developed by the states in accordance with this rulemaking would be used by the EPA in future rounds of area designations for the 1-hour SO\(_2\) NAAQS.”).
areas around SO₂ emissions sources in Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County were subject to the Round 2 deadline of July 2, 2016, these areas were required to be designated at that time, regardless of the state of Texas’ preference to characterize the areas based on monitoring data and its intention to monitor these areas, given additional time.

However, the EPA is proposing that we erred in failing to give greater weight to the preference of the state to monitor air quality in these areas when considering all available information at the time of designation. Accordingly, in light of the lack of monitoring data available at that time, and Texas’ expressed preference at that time for designations of these areas to be based on monitoring data, we are proposing to correct this error by designating the areas as unclassifiable.

The EPA is also proposing a second, independent grounds for error, that we erred in relying on available air quality modeling, in particular modeling submitted by Sierra Club, in making the initial nonattainment designations for these three areas. As noted earlier, the modeling submitted by Vistra Energy, which purported to show attainment, used a non-EPA preprocessor which constitutes an alternative model for which the state did not secure approval from the EPA per Appendix W to 40 CFR part 51—Guideline on Air Quality Models. Also, as noted earlier, the modeling submitted by Sierra Club, which purported to show nonattainment, while developed in accordance with the general recommendations on modeling provided by the EPA, contained key limitations and uncertainties. On one hand, we noted in the Texas Intended TSD and Texas Final TSD from Round 2 that individually these key limitations and uncertainties would not significantly change modeled results or, in many cases, could result in underestimation of SO₂ concentrations. 19 On the other hand, given the possible collective significance of these issues and, in the case of the areas around the Martin Lake and Monticello power plants, given that the maximum modeled concentrations are within about 10% of the primary SO₂ NAAQS, we are less confident in our prior statements that potential adjustments to the Sierra Club modeling would not result in modeled values near or below the NAAQS. 20 We, therefore, propose that our error in relying on the Sierra Club modeling represents an insufficient basis for the EPA’s initial nonattainment designations.

Accordingly, we are proposing to correct this error by designating the areas as unclassifiable.

One of the most significant limitations and uncertainties with Sierra Club’s modeling is the absence of variable stack conditions and representation of 100 percent load stack parameters. As commenters on the EPA’s proposed designations noted, this issue is particularly pronounced as the Electric Reliability Council of Texas (ERCOT) market is competitive “with plant dispatch based on variable cost” and falling natural gas prices and renewable capacity resulting in these units running in variable operations. 21 The EPA noted in the technical support document for the 2016 designations in Indiana that “use of hourly stack parameters more accurately characterize plume characteristics, which will provide greater reliability both in the estimated concentration and in the geographical distribution of concentrations.” 22 Other limitations and uncertainties with the Sierra Club modeling identified in the Texas Intended TSD and the Texas Final TSD for the 2016 SO₂ designations include: Use of an older version of AERMOD; representation of recent emissions, including controls after the 2011 National Emissions Inventory; inappropriate elevation of flagpole receptors; use of a larger receptor grid than recommended; treatment of building downwash, surface meteorology, hourly wind inputs, potential to emit/allowable emissions, variable stack temperature, and velocity; approach to estimation of background concentrations; and failure to include building downwash and fenceline, or source contribution in the modeling analysis. While individually these deficiencies are not dispositive, collectively they are a sufficient basis for the EPA to propose that we erred in relying on the Sierra Club modeling in making the initial nonattainment designations for the three Texas areas.

This proposed rationale is consistent with related statements by the EPA. The EPA’s March 2011 Guidance explained that given the currently limited network of SO₂ monitors and our expectation that states will not yet have completed appropriate modeling of all significant SO₂ sources, we anticipated that most areas of the country will be designated “unclassifiable.” 23 The EPA’s updated designations guidance in March 2015 indicated that: “In the absence of information clearly demonstrating a designation of ‘attainment’ or ‘nonattainment,’ the EPA intends to designate areas as ‘unclassifiable’ when it takes action pursuant to the court order.” 24 In promulgating revisions to the SO₂ NAAQS in 2010, the EPA stated that where informational records “are insufficient to support initial designations of either ‘attainment’ or ‘nonattainment’ * * * EPA is required to issue a designation for the area of ‘unclassifiable,’.” 25 The EPA also stated that designations would be determined “based on 3 years of complete, quality assured, certified monitoring data,” and that the EPA would allow for modeling in addition to monitoring (where monitoring was insufficient). 26 The Northern District Court of California also stated in regards to the consent decree that the appropriate remedy was to “ . . . require the EPA to issue designations pursuant to a schedule, not to mandate that EPA issue any particular designation.” 27

Furthermore, the EPA recognizes that its potential future reliance on properly sited monitors rather than dispersion modeling—as could be the case in a future redesignation of the Martin Lake power plant in Rusk/Panola Counties

20 The maximum predicted 99th percentile 1-hour SO₂ concentrations are 224 µg/m³ for the modeling domain that includes the Martin Lake power plant, and 212 µg/m³ for the modeling domain that includes the Monticello power plant. (The 1-hour SO₂ NAAQS is achieved at 196.4 µg/m³.) The prior TSDs erred in stating that the modeling for Monticello showed concentrations “almost double the standard.”

21 Comment submitted on March 31, 2016 from Kim Mireles, Luminant Generation Company, LLC. Docket ID# EPA-HQ-OAR-2014-0464-0328. ERCOT is the independent system operator responsible for dispatching electricity to the majority of Texas customers.


23 Memorandum dated March 24, 2011, titled “Area Designations for the 2010 Revised Primary Sulfur Dioxide National Ambient Air Quality Standards,” from Stephen D. Page, Director of EPA’s Office of Air Quality Planning and Standards, to Regional Air Division Directors.


25 75 FR 35571.

26 75 FR 35570–71.

27 75 FR 35569.

area and the Big Brown power plant in Freestone/Anderson Counties area—would be consistent with the approach the agency took in 2016 in designating the area around the Gibson power plant in Gibson County, Indiana. The EPA has also recognized in other areas that, where conflicting sets of model results exist, the appropriate designation may be “unclassifiable,” depending on the facts of that area.”

Additionally, the EPA is proposing that our error in relying on the Sierra Club modeling along with our error in failing to act or give greater weight to Texas’ preference for monitoring, represents an insufficient basis for the EPA’s initial nonattainment designations. Accordingly, we are proposing to correct this error by designating the areas as unclassifiable.

The proposed revised designation of unclassifiable indicates that the EPA could not determine based on available information at the time of issuing the designation whether the three Texas areas that are the subject of this proposed action were meeting or not meeting the 2010 SO\textsubscript{2} NAAQS. The EPA is initiating this notice-and-comment process for the public to comment on the EPA’s proposed errors and approach to correct the initial designation for Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County to unclassifiable, rather than nonattainment.

Furthermore, independent from correcting these initial designations, the EPA is proposing to remove the portion of Titus County that was erroneously listed as attainment/unclassifiable on the Texas Part 81 attainment status designations table. As part the Round 3 final designations rule published on January 9, 2018 (83 FR 1098), the EPA inadvertently listed a portion of Titus County (i.e., the portion that is not being designated as part of this proposed action nor the previous Round 2 final action) as attainment/unclassifiable. Consistent with the rulemaking records, the remaining portion of Titus County should not have been listed as attainment/unclassifiable in the part 81 table,\textsuperscript{31} EPA will designate the remaining Titus County area by December 31, 2020 during the Round 4 designations process.

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

A. Invitation To Comment

The purpose of this document is to solicit input from the public on EPA’s error in designating portions of Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County as nonattainment, and the corrected designations of unclassifiable. 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.

Previous submissions and supporting technical analyses utilized for the initial Round 2 designations can be found at https://www.epa.gov/sulfur-dioxide-designations and, also, in the public docket for these SO\textsubscript{2} designations at Docket ID No. EPA–HQ–OAR–2014–0464. Air dispersion modeling input and output files are too large to post in the docket or on the website and must be requested from the EPA Docket Office or from the contact listed in the FOR FURTHER INFORMATION CONTACT section. 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. The EPA invites public input on this proposed action regarding error correction of the designations of the Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County areas during the 30-day comment period provided in this document. In order to receive full consideration, input from the public must be submitted to the docket by September 23, 2019. At this time, the EPA is not asking for public comment on areas beyond the three areas that are the subject of this proposed action. In addition, in finalizing this action the EPA will not revisit comments relating to the designations for these three areas in Texas received in previous public comment periods. (The agency has already responded to these comments in the previous designations actions.) This opportunity for public comment does not affect any rights or obligations of any state, territory, or tribe, or of the EPA, which might otherwise exist pursuant to the CAA section 107(d).

Please refer to the FOR FURTHER INFORMATION CONTACT section in this document for specific instructions on submitting comments and locating relevant public documents.

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://www.regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI in any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition, in an electronic document, if 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 addresses:
   - 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.

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?

All documents in the docket are listed in the www.regulations.gov index, identified by Docket ID No. EPA–HQ–OAR–2014–0464, and on the agency’s SO\textsubscript{2} Designations website at https://www.regulations.gov/sulfur-dioxide-designations. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the EPA Docket Center. Air dispersion modeling input and output files are too large to post in the docket or on the website and must be requested from the contact listed in the FOR FURTHER INFORMATION CONTACT section. The EPA Docket Center 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.

III. 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 proposed action would correct an error in the nonattainment designations for Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County in Texas for the 2010 1-hour SO\textsubscript{2} 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 error corrections of air quality designations associated with 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. In this action, the EPA is correcting the SO\textsubscript{2} NAAQS designations for portions of Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County in Texas promulgated previously on December 13, 2016, and does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

This proposed error correction action under CAA section 110(k)(6) is not subject to the RFA. The RFA applies only to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act (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, as specified in Executive Order 13175. This action concerns the designation of portions of Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County in Texas for the 2010 SO\textsubscript{2} NAAQS. The CAA provides for states, territories, and eligible tribes to develop plans to regulate emissions of air pollutants within their areas, as necessary, based on the designations. The Tribal Authority Rule (TAR) provides tribes the opportunity to apply for eligibility to develop and implement CAA programs, such as programs to attain and maintain the SO\textsubscript{2} 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. It would not create any additional requirements beyond those of the SO\textsubscript{2} NAAQS. This rule, if finalized, would revise the designations for portions of Freestone and Anderson Counties, Rusk and Panola Counties, and Titus County in Texas for the SO\textsubscript{2} NAAQS, but no areas of Indian country are intended to be designated by this action. Furthermore, this rule does not affect the relationship or distribution of power and responsibilities between the federal government and Indian tribes. The CAA and the TAR establish the relationship of the federal government and tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Thus, Executive Order 13175 does not apply.

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 (NNTAA)

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 IV of this preamble, “Environmental Justice Concerns.”

List of Subjects in 40 CFR Part 81

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

Anne L. Idsal,
Acting Assistant Administrator.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 54
[WC Docket Nos. 11–10 and 19–195, FCC No. 19–79]

Establishing the Digital Opportunity Data Collection and Modernizing the FCC Form 477 Data Program

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopts a Report and Order and Second Further Notice of Proposed Rulemaking (Second FNPRM). This document seeks comment on certain aspects of the Digital Opportunity Data Collection to enhance its accuracy and usefulness. The Second FNPRM seeks comment on ways to develop location-specific data that could be used in conjunction with the polygon-based data in the new collection to precisely identify the homes and small businesses that have and do not have access to broadband services. With respect to mobile wireless coverage, the Second FNPRM seeks comment on how to align the Digital Opportunity Data Collection with changes in mobile broadband deployment technology, markets, and policy needs. The Second FNPRM also seeks comment on how to improve satellite broadband deployment data given the unique characteristics of satellites.

DATES: For the Second FNPRM comments are due on or before September 23, 2019, and reply comments are due on or before October 7, 2019. Written comments on the Paperwork Reduction Act information collection requirements must be submitted by the public, OMB, and other interested parties on or before October 21, 2019.

ADDRESSES: In addition to filing comments with the Commission’s Office of the Secretary, as set forth below, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Commission via email to PRA@fcc.gov and to Nicole Ongele, FCC, via email to Nicole.Ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Wireline Competition Bureau, Kirk Burgee, at (202) 418–1599, Kirk.Burgee@fcc.gov, or Wireless Telecommunications Bureau, Garnet Hanly, at (202) 418–0995, Garnet.Hanly@fcc.gov. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to PRA@fcc.gov or contact Nicole Ongele at (202) 418–2991.


Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments in response to the Second FNPRM on or before the dates indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: https://www.fcc.gov/ecfs/.

Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers