

SHORT RECORD
16-3398
Filed 9/9/16

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

SOUTHERN ILLINOIS POWER
COOPERATIVE,

Petitioner,

v.

U.S. ENVIRONMENTAL PROTECTION
AGENCY and GINA MCCARTHY,
ADMINISTRATOR,

Respondents.

Case No. _____

PETITION FOR JUDICIAL REVIEW

Pursuant to Rule 15 of the Federal Rules of Appellate Procedure and Section 307(b) of the Clean Air Act, 42 U.S.C. § 7607(b), Southern Illinois Power Cooperative petitions the Court for review of a final action of respondents – the U.S. Environmental Protection Agency, and Gina McCarthy, Administrator, U.S. Environmental Protection Agency – entitled “Air Quality Designations for the 2010 Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard – Round 2,” 81 Fed. Reg. 45039 (July 12, 2016), a copy of which is attached hereto.

Dated: September 9, 2016

Respectfully submitted,

/s/ J. Michael Showalter
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(2) Closed areas may not be reopened to traditional gathering and removal until the reasons for the closure have been resolved.

(3) Except in emergency situations, the Superintendent will provide public notice of any closure under this section in accordance with § 1.7 of this chapter. The Superintendent will also provide written notice of the closure directly to any tribe that has an agreement to gather and remove plants or plant parts from the closed area.

(i) *When may the Superintendent suspend or terminate an agreement or permit?*

(1) The Superintendent may suspend or terminate a gathering agreement or implementing permit if the tribe or a tribal member violates any term or condition of the agreement or the permit.

(2) The Superintendent may suspend or terminate a gathering agreement or implementing permit if unanticipated or significant adverse impacts to park area resources or values occur.

(3) If a Superintendent suspends or terminates a gathering agreement or implementing permit, then the Superintendent must prepare a written determination justifying the action and must provide a copy of the determination to the tribe.

(4) Before terminating a gathering agreement or implementing permit, the Superintendent must obtain the written concurrence of the Regional Director.

(j) *When is gathering prohibited?* Gathering, possession, or removal from a park area of plants or plant parts (including for traditional purposes) is prohibited except where specifically authorized by:

- (1) Federal statutory law;
- (2) Treaty rights;
- (3) Other regulations of this chapter;

or

(4) An agreement and permit issued under this section.

(k) *How may a tribe appeal a Superintendent's decision not to enter into a gathering agreement under this rule?* If a Superintendent denies a tribe's request to enter into a gathering agreement, then the Superintendent will provide the tribe with a written decision setting forth the reasons for the denial. Within 60 days after receiving the Superintendent's written decision, the tribe may appeal, in writing, the Superintendent's decision to the Regional Director. The appeal should set forth the substantive factual or legal bases for the tribe's disagreement with the Superintendent's decision and any other information the tribe wishes the Regional Director to consider. Within 45 days after receiving the tribe's written

appeal, the Regional Director will issue and send to the tribe a written decision that affirms, reverses, or modifies the Superintendent's decision. The Regional Director's appeal decision will constitute the final agency action on the matter. Appeals under this section constitute an administrative review and are not conducted as an adjudicative proceeding.

(l) *Have the information collection requirements been approved?* The Office of Management and Budget has reviewed and approved the information collection requirements in this section and assigned OMB Control No. 1024-0271. We will use this information to determine whether a traditional association and purpose can be documented in order to authorize traditional gathering. We may not conduct or sponsor and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. You may send comments on any aspect of this information collection to the Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Drive (Mail Stop 242), Reston, VA 20192.

Karen Hyun,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2016-16434 Filed 7-11-16; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-HQ-OAR-2014-0464; FRL-9948-87-OAR]

Air Quality Designations for the 2010 Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard—Round 2

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes the initial air quality designations for certain areas in the United States (U.S.) for the 2010 primary sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). The Environmental Protection Agency (EPA) is designating the areas as either nonattainment, unclassifiable/attainment, or unclassifiable, based on whether the areas do not meet the NAAQS or contribute to a nearby area that does not meet the NAAQS; meet the NAAQS; or cannot be classified on the basis of

available information as meeting or not meeting the NAAQS, respectively. The designations are based on the weight of evidence for each area, including available air quality monitoring data and air quality modeling. The Clean Air Act (CAA) directs areas designated nonattainment by this rule to undertake certain planning and pollution control activities to attain the SO₂ NAAQS as expeditiously as practicable. This is the second round of area designations for the 2010 SO₂ NAAQS.

DATES: The effective date of this rule is September 12, 2016.

ADDRESSES: The EPA has established a docket for this action under Docket ID NO. EPA-HQ-OAR-2014-0464. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., 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 <http://www.regulations.gov>.

In addition, the EPA has established a Web site for the initial SO₂ designations rulemakings at: <https://www.epa.gov/sulfur-dioxide-designations>. The Web site includes the EPA's final SO₂ designations, as well as state and tribal initial recommendation letters, the EPA's modification letters, technical support documents, responses to comments and other related technical information.

FOR FURTHER INFORMATION CONTACT: For general questions concerning this action, please contact Rhea Jones, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Planning Division, C539-04, Research Triangle Park, NC 27711, telephone (919) 541-2940, email at jones.rhea@epa.gov.

SUPPLEMENTARY INFORMATION:

U.S. EPA Regional Office Contacts:
 Region I—Leiran Biton, telephone (617) 918-1267, email at biton.leiran@epa.gov.
 Region II—Henry Feingersh, telephone (212) 637-3382, email at feingersh.henry@epa.gov.
 Region III—Irene Shandruk, telephone (215) 814-2166, email at shandruk.irene@epa.gov.
 Region IV—Twunjala Bradley, telephone (404) 562-9352, email at bradley.twunjala@epa.gov.
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Region VI—Dayana Medina, telephone (214) 665-7241, email at *medina.dayana@epa.gov*.
 Region VII—David Peter, telephone (913) 551-7397, email at *peter.david@epa.gov*.
 Region VIII—Adam Clark, telephone (303) 312-7104, email at *clark.adam@epa.gov*.
 Region IX—Gwen Yoshimura, telephone (415) 947-4134, email at *yoshimura.gwen@epa.gov*.
 Region X—John Chi, U.S. EPA, telephone (206) 553-1185, email at *chi.john@epa.gov*.
 The public may inspect the rule and state-specific technical support information at the following locations:

Regional offices	States
Dave Conroy, Chief, Air Programs Branch, EPA New England, 1 Congress Street, Suite 1100, Boston, MA 02114-2023, (617) 918-1661. Richard Ruvo, Chief, Air Planning Section, EPA Region II, 290 Broadway, 25th Floor, New York, NY 10007-1866, (212) 637-4014. Cristina Fernandez, Associate Director, Office of Air Program Planning, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2187, (215) 814-2178. R. Scott Davis, Chief, Air Planning Branch, EPA Region IV, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, 12th Floor, Atlanta, GA 30303, (404) 562-9127. John Mooney, Chief, Air Programs Branch, EPA Region V, 77 West Jackson Street, Chicago, IL 60604, (312) 886-6043. Guy Donaldson, Chief, Air Planning Section, EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202, (214) 665-7242. Mike Jay, Chief, Air Programs Branch, EPA Region VII, 11201 Renner Blvd., Lenexa, KS 66129, (913) 551-7460. Monica Morales, Acting Air Program Director, EPA Region VIII, 1595 Wynkoop Street, Denver, CO 80202-1129, (303) 312-6936. Doris Lo, Air Planning Office, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972-3959. Debra Suzuki, Manager, State and Tribal Air Programs, EPA Region X, Office of Air, Waste, and Toxics, Mail Code OAQ-107, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553-0985.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. New Jersey, New York, Puerto Rico and Virgin Islands. Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia. Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee. Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin. Arkansas, Louisiana, New Mexico, Oklahoma and Texas. Iowa, Kansas, Missouri and Nebraska. Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. American Samoa, Arizona, California, Guam, Hawaii, Nevada and Northern Mariana Islands. Alaska, Idaho, Oregon and Washington.

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I. Preamble Glossary of Terms and Acronyms

The following are abbreviations of terms used in the preamble.

- APA Administrative Procedure Act
- CAA Clean Air Act
- CFR Code of Federal Regulations
- DC District of Columbia
- EO Executive Order
- EPA Environmental Protection Agency
- FR Federal Register
- NAAQS National Ambient Air Quality Standards
- NTTAA National Technology Transfer and Advancement Act
- OMB Office of Management and Budget
- SO₂ Sulfur Dioxide
- SO_x Sulfur Oxides
- RFA Regulatory Flexibility Act
- UMRA Unfunded Mandate Reform Act of 1995
- TAR Tribal Authority Rule
- TAD Technical Assistance Document
- TSD Technical Support Document

- U.S. United States
- VCS Voluntary Consensus Standards

II. What is the purpose of this action?

The purpose of this final action is to announce and promulgate initial air quality designations for certain areas in the U.S. for the 2010 primary SO₂ NAAQS, in accordance with the requirements of the CAA. The EPA is designating areas as either nonattainment, unclassifiable/attainment, or unclassifiable, based on whether the areas do not meet the NAAQS or contribute to a nearby area that does not meet the NAAQS; meet the NAAQS; or cannot be classified on the basis of available information as meeting or not meeting the NAAQS, respectively. This is the second round of designations for the 2010 SO₂ NAAQS. As discussed in Section IV of this document, the EPA is designating SO₂ areas in multiple rounds. The EPA completed the first round of SO₂ designations in an action signed by the Administrator on July 25, 2013 (78 FR 47191; August 5, 2013). In that action, the EPA designated 29 areas in 16 states as nonattainment, based on air quality monitoring data.

In this second round of SO₂ designations, the EPA is designating 61 additional areas in 24 states: 4 nonattainment areas, 41 unclassifiable/attainment areas and 16 unclassifiable

areas. The list of areas being designated in the affected states and the boundaries of each area appear in the tables for each state within the regulatory text at the end of this document. These designations are based on the EPA's technical assessment of and conclusions regarding the weight of evidence for each area, including but not limited to available air quality monitoring data or air quality modeling. With respect to air quality monitoring data, the EPA considered data from at least the most recent three calendar years 2013–2015, as available, including an evaluation of exceptional event claims.¹ In most of the modeling runs conducted by states or third parties, the impacts of the actual emissions for the 3-year periods 2012–2014 or 2013–2015 were considered, and in some cases modeling evaluated recent or not-yet-effective allowable emissions limits in lieu of or as a supplement to modeling of actual emissions. For the areas being designated nonattainment, the CAA directs states to develop and submit to the EPA State Implementation Plans within 18 months of the effective date of this final rule, that meet the requirements of sections 172(c) and 191–192 of the CAA and provide for attainment of the NAAQS as expeditiously as practicable, but not later than 5 years from the effective date of this final rule. We also note that under EPA's Data Requirements Rule in 40 CFR part 51, subpart BB (80 FR 51052; August 21, 2015), the EPA expects to receive additional air quality characterization for many of the sources located in areas subject to this round of designations, and the agency could consider such data that corresponds to those areas designated unclassifiable in this round in future actions that assess the areas' air quality status.

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

The Administrator signed a final rule revising the primary SO₂ NAAQS on June 2, 2010. The rule was published in

¹ Exceptional event claims influenced the EPA's designation for an area in Hawaii. The CAA and the EPA's implementing regulations allow for the exclusion of air quality monitoring data from use in regulatory determinations when there are exceedances and/or violations caused by events that satisfy the criteria within the Exceptional Events Rule codified at 40 CFR 50.1, 50.14 and 51.930. The exclusion of event-influenced data from the data set that is used to calculate design values could result in regulatory relief from an initial area designation as nonattainment. The design value used to determine the unclassifiable/attainment area designation for Hawaii County, Hawaii reflects the EPA's concurrence on multiple exceptional events claims influencing monitored concentrations at monitors in Hawaii County, Hawaii.

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

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

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

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

premature death.² The EPA's NAAQS for particulate matter are designed to provide protection against these health effects.

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

After the EPA promulgates a new or revised NAAQS, the EPA is required to designate all areas of the country as either "nonattainment," "attainment,"³ or "unclassifiable," for that NAAQS 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." This provision also defines an attainment area as any area other than a nonattainment area that meets the NAAQS and an unclassifiable area as any area that cannot be classified on the basis of available information as meeting or not meeting the NAAQS.

The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d) of the CAA. The CAA requires the EPA to complete the initial designations process within 2 years of promulgating a new or revised standard. If the Administrator has insufficient information to make these designations by that deadline, the EPA has the authority to extend the deadline for completing designations by up to 1 year. On July 27, 2012, the EPA announced that it had insufficient information to complete the designations for the 1-hour SO₂ standard within 2 years and extended the designations deadline to June 3, 2013 (77 FR 46295; August 3, 2012).

By no later than 1 year after the promulgation of a new or revised NAAQS, CAA section 107(d)(1)(A) provides that each state governor is required to recommend air quality

² See Fact Sheet titled, "Revisions to the Primary National Ambient Air Quality Standard, Monitoring Network, and Data Reporting Requirements for Sulfur Dioxide" at <http://www3.epa.gov/airquality/sulfurdioxide/pdfs/20100602fs.pdf>.

³ Consistent with designations for other pollutants, the EPA is using the designation category of "unclassifiable/attainment" for areas where appropriate air quality data demonstrate attainment (for SO₂ this can be through monitoring and/or modeling) and for areas for which such data are not available but for which the EPA has reason to believe the areas are likely attainment and have not been determined to be contributing to nearby violations.

designations, including the appropriate boundaries for areas, to the EPA. The EPA reviews those state recommendations and is authorized to make any modifications the Administrator deems necessary. The statute does not define the term “necessary,” but the EPA interprets this to authorize the Administrator to modify designations that did not meet the statutory requirements or were otherwise inconsistent with the facts or analysis deemed appropriate by the EPA. If the EPA is considering modifications to a state’s initial recommendation, the EPA is required to notify the state of any such intended modifications to its recommendation not less than 120 days prior to the EPA’s promulgation of the final designation. These notifications are commonly known as the “120-day letters.” During this period, if the state does not agree with the EPA’s modification, it has an opportunity to respond to the EPA and to demonstrate why it believes the modification proposed by the EPA is inappropriate. If a state fails to provide any recommendation for an area, in whole or in part, the EPA still must promulgate a designation that the Administrator deems appropriate, pursuant to CAA section 107(d)(1)(B)(ii). While CAA section 107(d) 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 designation recommendations. If a tribe does not provide designation recommendations, the EPA will promulgate the designations that the Administrator deems appropriate.

The EPA notes that CAA section 107(d) provides the agency with discretion to determine how best to interpret the terms in the definition of a nonattainment area (*e.g.*, “contributes to” and “nearby”) for a new or revised NAAQS, given considerations such as the nature of a specific pollutant, the types of sources that may contribute to violations, the form of the standards for the pollutant, and other relevant information. In particular, the EPA’s position is that the statute does not require the agency to establish bright line tests or thresholds for what constitutes “contribution” or “nearby” for purposes of designations.⁴

Similarly, the EPA’s position is that the statute permits the EPA to evaluate the appropriate application of the term “area” to include geographic areas based upon full or partial county

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

For the 2010 SO₂ NAAQS, designation recommendations were due to the EPA by June 3, 2011. Designation recommendations and supporting documentation were submitted by most states and several tribes to the EPA by that date. After receiving these recommendations, and after reviewing and evaluating each recommendation, the EPA provided responses to the states and tribes regarding certain areas on February 7, 2013. The state and tribal letters, including the initial recommendations, the EPA’s February 2013 responses to those letters, any modifications, and the subsequent state comment letters, are in the separate docket for that first round of SO₂ designations, at Docket ID NO. EPA–HQ–OAR–2012–0233.

Although not required by section 107(d) of the CAA, the EPA also provided an opportunity for members of the public to comment on the EPA’s February 2013 response letters. The EPA completed the first round of SO₂ designations on July 25, 2013, designating 29 areas in 16 states as nonattainment (78 FR 47191; August 5, 2013). In the preamble to that action, the EPA stated that in separate future actions, it intended to address designations for all other areas for which the agency was not yet prepared to issue designations and that were consequently not addressed in that final rule. With input from a diverse group of stakeholders, EPA developed a comprehensive implementation strategy for the future SO₂ designations actions that focuses resources on identifying and addressing unhealthy levels of SO₂ in areas where people are most likely to be exposed to violations of the standard.

Following the initial August 5, 2013, 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, deadline. In an effort intended to resolve the litigation in one of those cases, the EPA and the plaintiffs, Sierra Club and the Natural Resources Defense Council, filed a proposed consent decree with the U.S. District Court for the Northern District of California. On March 2, 2015, the court entered the

consent decree and issued an enforceable order for the EPA to complete the area designations by three specific deadlines according to the court-ordered schedule.

According to the court-ordered schedule, the EPA must complete this second round of SO₂ designations by no later than July 2, 2016 (16 months from the court’s order). The court order specifies that in this round the EPA must designate two groups of areas: (1) Areas that have newly monitored violations of the 2010 SO₂ NAAQS and (2) areas that contain any stationary sources that had not been announced as of March 2, 2015, for retirement and that, according to the EPA’s Air Markets Database, emitted in 2012 either (i) more than 16,000 tons of SO₂, or (ii) more than 2,600 tons of SO₂ with an annual average emission rate of at least 0.45 pounds of SO₂ per one million British thermal units (lbs SO₂/mmBTU). Specifically, a stationary source with a coal-fired electric generating unit that, as of January 1, 2010, had a capacity of over 5 megawatts and otherwise meets the emissions criteria, is excluded from the July 2, 2016, deadline if it had announced through a company public announcement, public utilities commission filing, consent decree, public legal settlement, final state or federal permit filing, or other similar means of communication, by March 2, 2015, that it will cease burning coal at that unit.

The last two court-ordered deadlines for completing remaining designations are December 31, 2017 (Round 3), and December 31, 2020 (Round 4). In Round 3, the EPA must designate any remaining undesignated areas, for which, by January 1, 2017, states have not installed and begun operating a new SO₂ monitoring network meeting the EPA’s specifications referenced in the then-anticipated SO₂ Data Requirements Rule. By December 31, 2020, the EPA must designate all remaining areas. The EPA finalized the SO₂ Data Requirements Rule (DRR) on August 10, 2015, codified at 40 CFR part 51, subpart BB (80 FR 51052; August 21, 2015). The rule establishes requirements for state and other air agencies to provide additional monitoring or modeling information on a timetable consistent with these designation deadlines. We expect this additional information to become available in time to help inform these subsequent designations.

On March 20, 2015, the EPA sent letters to Governors notifying them of the March 2, 2015, court order and identifying any sources in their states meeting the criteria for the round of

⁴ This view was confirmed in *Catawba County v. EPA*, 571 F.3d 20 (D.C. Cir. 2009).

designations to be completed by July 2, 2016. The EPA offered states the opportunity to submit updated recommendations and supporting information for the EPA to consider for the affected areas. The EPA also notified states that the agency had updated its March 24, 2011, SO₂ designations guidance to support analysis of designations and boundaries for the next rounds of designations. All of the states with affected areas submitted updated designation recommendations. For areas of Indian county, there were no violating monitors and no sources meeting the criteria for the designations to be completed by July 2, 2016. However, the EPA also sent letters to Tribal Leaders where the EPA had identified a state source that met the criteria in the court order and that could potentially be impacting the tribal land. The EPA also offered tribes the opportunity to submit information or a recommendation for the potentially affected areas of tribal land. No tribes submitted information or recommendations for this round of designations.

On or about February 16, 2016, the EPA notified 24 affected states of its intended designation of certain specific areas as either nonattainment, unclassifiable/attainment, or unclassifiable for the SO₂ NAAQS. These states then had the opportunity to demonstrate why they believed an intended modification of their updated recommendations by the EPA may be inappropriate. Although not required, as the EPA had done for the first round of SO₂ designations, the EPA also chose to provide an opportunity for members of the public to comment on the EPA's February 2016 response letters. The EPA published a notice of availability and public comment period for the intended designation on March 1, 2016 (81 FR 10563). The public comment period closed on March 31, 2016. The updated recommendations, the EPA's February 2016 responses to those letters, any modifications, and the subsequent state and public comment letters, are in the docket for this second round of SO₂ designations at Docket ID NO. EPA-HQ-OAR-2014-0464 and are available on the SO₂ designations Web site.

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

In the notice of proposed rulemaking for the revised SO₂ NAAQS (74 FR 64810; December 8, 2009), the EPA issued proposed guidance on its approach to implementing the standard,

including its approach to initial area designations. The EPA solicited comment on that guidance and, in the notice of final rulemaking (75 FR 35520; June 22, 2010), provided further guidance concerning implementation of the standard and how to identify nonattainment areas and boundaries for the SO₂ NAAQS. Subsequently, on March 24, 2011, the EPA provided additional designations guidance to assist states with making their recommendations for area designations and boundaries.⁵ That guidance recommended, among other things, that monitoring data from the most recent three consecutive years be used to identify a violation of the SO₂ NAAQS. This is appropriate because the form of the SO₂ NAAQS is calculated as a 3-year average of the 99th percentile of the yearly distribution of 1-hour daily maximum SO₂ concentrations (specifically the most recent 3 consecutive years). The EPA based the first round of final SO₂ designations on monitored SO₂ concentrations from Federal Reference Method and Federal Equivalent Method monitors that are sited and operated in accordance with 40 CFR parts 50 and 58.

In the March 24, 2011, guidance, the EPA stated that the perimeter of a county containing a violating monitor would be the initial presumptive boundary for nonattainment areas, but also stated that the state, tribe and/or the EPA could conduct additional area-specific analyses that could justify establishing either a larger or smaller area. The EPA indicated that the following factors should be considered in an analysis of whether to exclude portions of a county and whether to include additional nearby areas outside the county as part of the designated nonattainment area: (1) Air quality data; (2) emissions-related data; (3) meteorology; (4) geography/topography; and (5) jurisdictional boundaries, as well as other available data. States and tribes may identify and evaluate other relevant factors or circumstances specific to a particular area.

Following entry of the March 2, 2015, court order, updated designations guidance was issued by the EPA through a March 20, 2015, memorandum from Stephen D. Page, Director, U.S. EPA, Office of Air Quality Planning and Standards, to Air Division Directors, U.S. EPA Regions 1–10. This memorandum supersedes the March 24, 2011, designation guidance for the 2010

SO₂ NAAQS, and identifies factors that the EPA intends to evaluate in determining whether areas are in violation of the 2010 SO₂ NAAQS. The guidance also contains the factors the EPA intends to evaluate in determining the boundaries for all remaining areas in the country, consistent with the court's order and schedule. These factors include: (1) Air quality characterization via ambient monitoring or dispersion modeling results; (2) emissions-related data; (3) meteorology; (4) geography and topography; and (5) jurisdictional boundaries. This guidance was supplemented by two non-binding technical assistance documents intended to assist states and other interested parties in their efforts to characterize air quality through air dispersion modeling or ambient air quality monitoring for sources that emit SO₂. Notably, the EPA's documents titled, "SO₂ NAAQS Designations Modeling Technical Assistance Document" (Modeling TAD) and "SO₂ NAAQS Designations Source-Oriented Monitoring Technical Assistance Document" (Monitoring TAD), were first made available to states and other interested parties in spring of 2013. Both of these documents were most recently updated in February 2016 and are available at <https://www.epa.gov/sulfur-dioxide-designations>.

VI. What air quality information has the EPA used for these designations?

For designations for the SO₂ NAAQS, air agencies have the flexibility to characterize air quality using either appropriately sited ambient air quality monitors or modeling of actual or allowable source emissions. The EPA issued the non-binding draft Monitoring TAD and Modeling TAD recommending how air agencies should conduct such monitoring or modeling. For the SO₂ designations contained in this action, the EPA considered available air quality monitoring data from at least calendar years 2013–2015, including an evaluation of exceptional events claims, and modeling submitted by state air agencies and other parties. In most of the modeling runs, the impacts of the actual emissions for the 3-year periods 2012–2014 or 2013–2015 were considered, and in some cases modeling evaluated recent or not-yet-effective allowable emissions limits in lieu of or as a supplement to modeling of actual emissions. The 1-hour primary SO₂ standard is violated at an ambient air quality monitoring site (or in the case of dispersion modeling, at an ambient air quality receptor location) when the 3-year average of the annual 99th percentile of the daily maximum 1-hour

⁵ See, "Area Designations for the 2010 Revised Primary Sulfur Dioxide National Ambient Air Quality Standards," memorandum to Regional Air Division Directors, Regions I–X, from Stephen D. Page, dated March 24, 2011.

average concentrations exceeds 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. For this round of designations there were no areas designated nonattainment based on monitoring data showing violations of the NAAQS. To determine model-based violations, the EPA believes that dispersion modeling is an appropriate tool, as discussed in the Modeling TAD. The TAD provides recommendations on how an air agency might appropriately and sufficiently model ambient air in proximity to an SO₂ emission source to establish air quality data for comparison to the 2010 primary SO₂ NAAQS for the purposes of designations.

VII. How do the Round 2 designations affect Indian country?

In Round 2 of the designations for the 2010 primary SO₂ NAAQS, the EPA is designating 61 state areas as either nonattainment, unclassifiable/attainment, or unclassifiable. For areas of Indian country, there were no violating monitors and no sources meeting the criteria for the designations to be completed by July 2, 2016. No areas of Indian country are being designated as nonattainment as part of this round. Any Indian country located in areas being designated as unclassifiable/attainment or unclassifiable are being designated along with the surrounding state area. All remaining state areas and areas of Indian country will be addressed in subsequent rounds of SO₂ designations.

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

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

IX. Environmental Justice Concerns

When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the U.S. as

either nonattainment, attainment, or unclassifiable.

This final action addresses designation determinations for certain areas for the 2010 primary SO₂ 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.

X. Statutory and Executive Order Reviews

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

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

This action is exempted from review from 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. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action responds to the requirement to promulgate air quality designations after promulgation of a new or revised NAAQS. This requirement is prescribed in the CAA section 107 of title 1. This action does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

This final rule 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. This rule is not subject to notice-and-comment requirements under the APA but is subject to the CAA section 107(d)(2)(B) which does not require a notice-and-comment rulemaking to take this action.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandates as described by URM, 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.

E. Executive Order 13132: Federalism

This final action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications, as specified in Executive Order 13175. This action concerns the designation of certain areas in the U.S. for the 2010 primary SO₂ NAAQS. 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 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 SO₂ 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 does not create any additional requirements beyond those of the SO₂ NAAQS. This rule establishes the designations for certain areas of the country for the SO₂ NAAQS, but no areas of Indian country are being designated as nonattainment 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.

Although Executive Order 13175 does not apply to this rule, after the EPA promulgated the 2010 primary SO₂ NAAQS, the EPA communicated with tribal leaders and environmental staff regarding the designations process. The EPA also sent individualized letters to

all federally recognized tribes to explain the designation process for the 2010 primary SO₂ NAAQS, to provide the EPA designations guidance, and to offer consultation with the EPA. The EPA provided further information to tribes through presentations at the National Tribal Forum and through participation in National Tribal Air Association conference calls. The EPA also sent individualized letters to all federally recognized tribes that submitted recommendations to the EPA about the EPA's intended designations for the SO₂ standard and offered tribal leaders the opportunity for consultation. These communications provided opportunities for tribes to voice concerns to the EPA about the general designations process for the 2010 primary SO₂ NAAQS, as well as concerns specific to a tribe, and informed the EPA about key tribal concerns regarding designations as the rule was under development. For this second round of SO₂ designations, the EPA sent additional letters to tribes that could potentially be affected and offered additional opportunities for participation in the designations process. The communication letters to the tribes are provided in the dockets for Round 1 (Docket ID NO. EPA-HQ-OAR-2012-0233 and Round 2 (Docket ID NO. EPA-HQ-OAR-2014-0464).

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

The EPA interprets Executive Order 13045 as applying only 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 concern an environmental health risk or safety risk.

H. 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.

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards.

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

The EPA believes 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 Executive Order 12898 (59 FR 7629, February 16, 1994). The documentation for this decision is contained in Section IX of this document.

K. Congressional Review Act (CRA)

The CRA, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the U.S. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the U.S. prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective September 12, 2016.

L. 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: (i) When the agency action consists of "nationally applicable regulations promulgated, or final actions taken, by the Administrator," or (ii) when such action is locally or regionally applicable, if "such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination."

This final action designating areas for the 2010 primary SO₂ NAAQS is "nationally applicable" within the meaning of section 307(b)(1). This final action establishes designations for areas across the U.S. for the 2010 primary SO₂ NAAQS. At the core of this final action is the EPA's interpretation of the definitions of nonattainment, attainment and unclassifiable under section 107(d)(1) of the CAA, and its

application of that interpretation to areas across the country. Accordingly, the Administrator has determined that this final action is nationally applicable and is hereby publishing that finding in the **Federal Register**.

For the same reasons, the Administrator also is determining that the final designations are of nationwide scope and effect for the purposes of section 307(b)(1). This is particularly appropriate because, in the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that an action is of "nationwide scope or effect" would be appropriate for any action that has a scope or effect beyond a single judicial circuit. H.R. Rep. No. 95-294 at 323, 324, *reprinted* in 1977 U.S.C.C.A.N. 1402-03. Here, the scope and effect of this final action extends to numerous judicial circuits since the designations apply to areas across the country. In these circumstances, section 307(b)(1) and its legislative history calls for the Administrator to find the action to be of "nationwide scope or effect" and for venue to be in the D.C. Circuit. Therefore, this final action is based on a determination by the Administrator of nationwide scope or effect, and the Administrator is hereby publishing that finding in the **Federal Register**.

Thus, any petitions for review of these 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: June 30, 2016.

Gina McCarthy,
Administrator.

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

PART 81—DESIGNATIONS OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

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

Subpart C—Section 107 Attainment Status Designations

■ 2. Section 81.304 is amended by adding a new table entitled "Arkansas—2010 Sulfur Dioxide NAAQS (Primary)" following the table "Arkansas—1971

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

§ 81.304 Arkansas. * * * * *

ARKANSAS—2010 SULFUR DIOXIDE NAAQS [Primary]

Table with 3 columns: Designated area, Date, and Designation (Type). Rows include Independence County, AR and Jefferson County, AR.

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

* * * * * 3. Section 81.306 is amended by adding a new table entitled “Colorado—

2010 Sulfur Dioxide NAAQS (Primary)” § 81.306 Colorado. following the table “Colorado—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows: * * * * *

COLORADO—2010 SULFUR DIOXIDE NAAQS [Primary]

Table with 3 columns: Designated area, Date, and Designation (Type). Rows include Colorado Springs, CO and Eastern Morgan County, CO.

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

* * * * * 4. Section 81.311 is amended by adding a new table entitled “Georgia—

2010 Sulfur Dioxide NAAQS (Primary)” § 81.311 Georgia. following the table “Georgia—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows: * * * * *

GEORGIA—2010 SULFUR DIOXIDE NAAQS [Primary]

Table with 3 columns: Designated area, Date, and Designation (Type). Row includes Juliette, GA.

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

* * * * * 5. Section 81.312 is amended by adding a new table entitled “Hawaii—

2010 Sulfur Dioxide NAAQS (Primary)” § 81.312 Hawaii. following the table “Hawaii—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows: * * * * *

HAWAII—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated area	Designation	
	Date	Type
Hawaii County, HI ¹ Hawaii County.	9/12/16	Unclassifiable/Attainment.

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

* * * * *
 ■ 6. Section 81.314 is amended by revising the table entitled “Illinois—
 2010 Sulfur Dioxide NAAQS (Primary)” § 81.314 Illinois.
 to read as follows: * * * * *

ILLINOIS—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated area	Designation	
	Date	Type
Alton Township, IL ¹ Madison County (part). Within Alton Township: Area east of Corporal Belchik Memorial Expressway, south of East Broadway, south of Route 3, and north of Route 143.	9/12/16	Nonattainment.
Lemont, IL ¹ Cook County (part). Lemont Township. Will County (part). DuPage Township and Lockport Township.	10/4/13	Nonattainment.
Pekin, IL ¹ Tazewell County (part). Cincinnati Township and Pekin Township. Peoria County (part). Hollis Township.	10/4/13	Nonattainment.
Williamson County, IL ¹ Williamson County.	9/12/16	Nonattainment.
Jasper County, IL ² Jasper County.	9/12/16	Unclassifiable/Attainment.
Massac County, IL ² Massac County.	9/12/16	Unclassifiable/Attainment.
Putnam/Bureau Counties, IL ² Bureau County. Putnam County.	9/12/16	Unclassifiable/Attainment.
Wood River Township, IL ¹ Madison County (part). All of Wood River Township, and the area in Chouteau Township north of Cahokia Diver- sion Channel.	9/12/16	Unclassifiable/Attainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.
² Includes Indian country located in each area, if any, unless otherwise specified.

* * * * *
 ■ 7. Section 81.315 is amended by revising the table entitled “Indiana—
 2010 Sulfur Dioxide NAAQS (Primary)” § 81.315 Indiana.
 to read as follows: * * * * *

INDIANA—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated area	Designation	
	Date	Type
Indianapolis, IN ¹ Marion County (part). Wayne Township, Center Township, Perry Township.	10/4/13	Nonattainment.
Morgan County, IN ¹ Morgan County (part). Clay Township, Washington Township.	10/4/13	Nonattainment.
Southwest Indiana, IN ¹ Daviess County (part).	10/4/13	Nonattainment.

INDIANA—2010 SULFUR DIOXIDE NAAQS—Continued
 [Primary]

Designated area	Designation	
	Date	Type
Veale Township. Pike County (part). Washington Township. Terre Haute, IN ¹	10/4/13	Nonattainment.
Vigo County (part). Fayette Township, Harrison Township. Gibson County, IN ²	9/12/16	Unclassifiable/attainment.
Gibson County. Jefferson County, IN ²	9/12/16	Unclassifiable/attainment.
Jefferson County (part). Graham, Lancaster, Madison, Monroe, Republican, Shelby, and Smyrna Townships. LaPorte County, IN ²	9/12/16	Unclassifiable/attainment.
LaPorte County. Posey County, IN ²	9/12/16	Unclassifiable/attainment.
Posey County (part). Bethel, Center, Harmony, Lynn, Marrs, Robb, Robinson, and Smith Townships. Spencer County, IN ²	9/12/16	Unclassifiable/attainment.
Spencer County (part). Ohio Township north of UTM 4187.580 km northing, and Carter, Clay, Grass, Hammond, Harrison, and Jackson Townships.		

¹ Excludes Indian country located in each area, if any, unless otherwise specified.
² Includes Indian country located in each area, if any, unless otherwise specified.

* * * * *

■ 8. Section 81.316 is amended by revising the table entitled “Iowa—2010

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

§ 81.316 Iowa.

* * * * *

IOWA—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated area	Designation	
	Date	Type
Muscatine, IA ¹	10/4/13	Nonattainment.
Muscatine County (part). Sections 1–3, 10–15, 22–27, 34–36 of T77N, R3W (Lake Township). Sections 1–3, 10–15, 22–27, 34–36 of T76N, R3W (Seventy-six Township). T77N, R2W (Bloomington Township). T76N, R2W (Fruitland Township). All sections except 1, 12, 13, 24, 25, 36 of T77N, R1W (Sweetland Township).		
Woodbury County, IA ¹	9/12/16	Unclassifiable.
Woodbury County. Des Moines County, IA ²	9/12/16	Unclassifiable/Attainment.
Des Moines County. Wapello County, IA ²	9/12/16	Unclassifiable/Attainment.
Wapello County.		

¹ Excludes Indian country located in each area, if any, unless otherwise specified.
² Includes Indian country located in each area, if any, unless otherwise specified.

* * * * *

■ 9. Section 81.317 is amended by adding a new table entitled “Kansas—

2010 Sulfur Dioxide NAAQS (Primary)” following the table “Kansas—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

§ 81.317 Kansas.

* * * * *

KANSAS—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated area	Designation	
	Date	Type
Shawnee County, KS ¹	9/12/16	Unclassifiable.
Shawnee County.		

KANSAS—2010 SULFUR DIOXIDE NAAQS—Continued
 [Primary]

Designated area	Designation	
	Date	Type
Wyandotte County, KS ¹ Wyandotte County.	9/12/16	Unclassifiable.
Linn County, KS ² Linn County.	9/12/16	Unclassifiable/Attainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.
² Includes Indian country located in each area, if any, unless otherwise specified.

* * * * * 2010 Sulfur Dioxide NAAQS (Primary)” § 81.318 Kentucky.
 ■ 10. Section 81.318 is amended by to read as follows: * * * * *
 revising the table entitled “Kentucky—

KENTUCKY—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated area	Designation	
	Date	Type
Campbell-Clermont Counties, KY–OH ¹ Campbell County (part). That portion of Campbell County which lies south and west of the Ohio River described as follows: Beginning at geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude (NAD 1983) on the edge of the Ohio River running southwesterly to KY Highway 1566; thence continuing running southwesterly along KY Highway 1566 to KY Highway 9 (AA Highway); thence running north westerly along KY Highway 9 (AA Highway) from Hwy 1566 to Interstate 275; thence running northeasterly along Interstate 275 to Highway 2345 (John’s Hill Road), Hwy 2345 to US–27, US–27 to I–275, I–275 to the Ohio River; thence running southeasterly along the Ohio River from Interstate 275 to geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude (NAD 1983).	10/4/13	Nonattainment.
Jefferson County, KY ¹ Jefferson County (part). That portion of Jefferson County compassed by the polygon with the vertices using Universal Traverse Mercator (UTM) coordinates in UTM zone 16 with datum NAD83 as follows: (1) Ethan Allen Way extended to the Ohio River at UTM Easting (m) 595738, UTM Northing 4214086 and Dixie Highway (US60 and US31W) at UTM Easting (m) 59751, UTM Northing 4212946; (2): Along Dixie Highway from UTM Easting (m) 597515, UTM Northing 4212946 to UTM Easting (m) 595859, UTM Northing 4210678; (3): Near the adjacent property lines of Louisville Gas and Electric—Mill Creek Electric Generating Station and Kosmos Cement where they join Dixie Highway at UTM Easting (m) 595859, UTM Northing 4210678 and the Ohio River at UTM Easting (m) 595326, UTM Northing 4211014; (4): Along the Ohio River from UTM Easting (m) 595326, UTM Northing 4211014 to UTM Easting (m) 595738, UTM Northing 4214086.	10/4/13	Nonattainment.
Ohio County, KY ¹ Ohio County.	9/12/16	Unclassifiable.
Pulaski County, KY ¹ Pulaski County.	9/12/16	Unclassifiable.

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

* * * * * 2010 Sulfur Dioxide NAAQS (Primary)” § 81.319 Louisiana.
 ■ 11. Section 81.319 is amended by to read as follows: * * * * *
 revising the table entitled “Louisiana—

LOUISIANA—2010 SULFUR DIOXIDE NAAQS
 [Primary]

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

LOUISIANA—2010 SULFUR DIOXIDE NAAQS—Continued
[Primary]

Designated area	Designation	
	Date	Type
Calcasieu Parish, LA ¹ Calcasieu Parish.	9/12/16	Unclassifiable.
De Soto Parish, LA ² De Soto Parish.	9/12/16	Unclassifiable/Attainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.
² Includes Indian country located in each area, if any, unless otherwise specified.

* * * * *

2010 Sulfur Dioxide NAAQS (Primary)” § 81.321 Maryland.
following the table “Maryland—1971 * * * * *
Sulfur Dioxide NAAQS (Primary and
Secondary)” to read as follows:

■ 12. Section 81.321 is amended by adding the table entitled “Maryland—

MARYLAND—2010 SULFUR DIOXIDE NAAQS
[Primary]

Designated area	Designation	
	Date	Type
Anne Arundel County and Baltimore County, MD ¹ Anne Arundel County (part). Portions of Anne Arundel County that are within 26.8 kilometers of Herbert A. Wagner’s Unit 3 stack, which is located at 39.17765 N. latitude, 76.52752 W. longitude. Baltimore County (part). Portions of Baltimore County that are within 26.8 kilometers of Herbert A. Wagner’s Unit 3 stack, which is located at 39.17765 N. latitude, 76.52752 W. longitude.	9/12/16	Nonattainment.
Baltimore City, MD ²	9/12/16	Unclassifiable/Attainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.
² Includes Indian country located in each area, if any, unless otherwise specified.

* * * * *

2010 Sulfur Dioxide NAAQS (Primary)” § 81.323 Michigan.
to read as follows: * * * * *

■ 13. Section 81.323 is amended by revising the table entitled “Michigan—

MICHIGAN—2010 SULFUR DIOXIDE NAAQS
[Primary]

Designated area	Designation	
	Date	Type
Detroit, MI ¹ Wayne County (part). The area bounded on the east by the Michigan-Ontario border, on the south by the Wayne County-Monroe County border, on the west by Interstate 75 north to Southfield Road, Southfield Road to Interstate 94, and Interstate 94 north to Michigan Avenue, and on the north by Michigan Avenue to Woodward Avenue and a line on Woodward Avenue extended to the Michigan-Ontario border.	10/4/13	Nonattainment.
St. Clair, MI ¹ St. Clair County (part). Area defined by the St. Clair River for the eastern boundary, an extension from the St. Clair River straight west to the intersection of State Highway M–29 and St. Clair River Drive, continuing west on State Highway M–29 to Church Road to Arnold Road to County Line Road for the southern boundary, County Line Road and the Macomb/St. Clair County boundary to Stoddard Road to Wales Ridge Road for the western boundary, and Alpine Road to Fitz Road to Smith Creek Road to Range Road to Huron Avenue, extending straight east from the intersection of Huron Road and River Road to the St. Clair River for the northern boundary.	9/12/16	Nonattainment.
Bay County, MI ² Bay County.	9/12/16	Unclassifiable/Attainment.
Lansing, MI ² Eaton County. Ingham County.	9/12/16	Unclassifiable/Attainment.
Marquette County, MI ²	9/12/16	Unclassifiable/Attainment.

MICHIGAN—2010 SULFUR DIOXIDE NAAQS—Continued
 [Primary]

Designated area	Designation	
	Date	Type
Marquette County. Monroe County, MI ²	9/12/16	Unclassifiable/Attainment.
Monroe County. Ottawa County, MI ²	9/12/16	Unclassifiable/Attainment.
Ottawa County.		

¹ Excludes Indian country located in each area, if any, unless otherwise specified.
² Includes Indian country located in each area, if any, unless otherwise specified.

* * * * *
 ■ 14. Section 81.325 is amended by adding a new table entitled “Mississippi—2010 Sulfur Dioxide NAAQS (Primary)” following the table § 81.325 Mississippi.
 “Mississippi—1971 Sulfur Dioxide * * * * *
 NAAQS (Primary and Secondary)” to read as follows:

MISSISSIPPI—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated area	Designation	
	Date	Type
Lamar County, MS ¹	9/12/16	Unclassifiable/Attainment.
Lamar County.		

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

* * * * *
 ■ 15. Section 81.326 is amended by revising the table entitled “Missouri—2010 Sulfur Dioxide NAAQS (Primary)” to read as follows: § 81.326 Missouri.
 * * * * *

MISSOURI—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated area	Designation	
	Date	Type
Jackson County, MO ¹	10/4/13	Nonattainment.
Jackson County (part). The portion of Jackson County bounded by I-70/I-670 and the Missouri River to the north; and, to the west of I-435 to the state line separating Missouri and Kansas.		
Jefferson County, MO ¹	10/4/13	Nonattainment.
Jefferson County (part). That portion within Jefferson County described by connecting the following four sets of UTM coordinates moving in a clockwise manner: (Herculaneum USGS Quadrangle), 718360.283 4250477.056, 729301.869 4250718.415, 729704.134 4236840.30, 718762.547 4236558.715. (Festus USGS Quadrangle), 718762.547 4236558.715, 729704.134 4236840.30, 730066.171 4223042.637, 719124.585 4222680.6. (Selma USGS Quadrangle), 729704.134 4236840.30, 730428.209 4236840.3, 741047.984 4223283.996, 730066.171 4223042.637. (Valmeyer USGS Quadrangle), 729301.869 4250718.415, 731474.096 4250798.868, 730428.209 4236840.3, 729704.134 4236840.30.		
Franklin-St. Charles Counties, MO ¹	9/12/16	Unclassifiable.
Franklin County (part). The eastern and western boundaries are Boles Township boundaries. The northern boundary is the Franklin County-St. Charles County Line. The southern boundary is Interstate 44. St. Charles County (part). The eastern and western boundaries are Boone Township boundaries. The northern boundary is Missouri Route D and Highway 94. The southern boundary is the Franklin County-St. Charles County Line.		
Jackson County, MO ¹	9/12/16	Unclassifiable.
Jackson County (part).		

MISSOURI—2010 SULFUR DIOXIDE NAAQS—Continued
 [Primary]

Designated area	Designation	
	Date	Type
The northern boundary is the county line separating Jackson County from Clay and Ray Counties. The eastern boundary is the county line separating Jackson County from Lafayette County. The southern boundary is Interstates 70 and 470. The western boundary is Missouri Highway 291. Scott County, MO ² Scott County.	9/12/16	Unclassifiable/Attainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.
² Includes Indian country located in each area, if any, unless otherwise specified.

* * * * *
 ■ 16. Section 81.328 is amended by adding a new table entitled “Nebraska—2010 Sulfur Dioxide NAAQS (Primary)” following the table “Nebraska—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

NEBRASKA—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated Area	Designation	
	Date	Type
Lancaster County, NE ¹ Lancaster County.	9/12/16	Unclassifiable.
Lincoln County, NE ² Lincoln County.	9/12/16	Unclassifiable/Attainment.
Otoe County, NE ² Otoe County.	9/12/16	Unclassifiable/Attainment.

¹ Excludes Indian country located in each area, if any, unless otherwise specified.
² Includes Indian country located in each area, if any, unless otherwise specified.

* * * * *
 ■ 17. Section 81.333 is amended by adding a new table entitled “New York—2010 Sulfur Dioxide NAAQS (Primary)” following the table “New York—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

NEW YORK—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated area	Designation	
	Date	Type
Erie-Niagara, NY ¹ Erie County. Niagara County.	9/12/16	Unclassifiable/Attainment.

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

* * * * *
 ■ 18. Section 81.334 is amended by adding a new table entitled “North Carolina—2010 Sulfur Dioxide NAAQS (Primary)” following the table “North Carolina—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:

NORTH CAROLINA—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated Area	Designation	
	Date	Type
Brunswick County, NC ¹ Brunswick County.	9/12/16	Unclassifiable.

NORTH CAROLINA—2010 SULFUR DIOXIDE NAAQS—Continued
 [Primary]

Designated Area	Designation	
	Date	Type
Lockwood Folly Township, Northwest Township, Shallotte Township, Smithville Township, Town Creek Township, Waccamaw Township.		

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

* * * * * (Primary)” following the table “North § 81.335 North Dakota.
 ■ 19. Section 81.335 is amended by adding a new table entitled “North Dakota—2010 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows: * * * * *

NORTH DAKOTA—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated Area	Designation	
	Date	Type
McLean County/Eastern Mercer County, ND ¹ McLean County. Mercer County (part). Area east of CR–37/ND 31, east/north of ND 200 ALT, west of the eastern border of Mercer County/Missouri River, south of the Knife River National Historic Site..	9/12/16	Unclassifiable/Attainment.
Central Mercer County, ND ¹ Mercer County (part). Area west of ND 49/61st Ave SW, north of Co. Rd 15/17th St. SW., east of Co. Rd 13, south and east of the town Zap, south of 8th St. SW./ND 200.	9/12/16	Unclassifiable/Attainment.

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

* * * * * Sulfur Dioxide NAAQS (Primary)” to § 81.336 Ohio.
 ■ 20. Section 81.336 is amended by revising the table entitled “Ohio—2010 read as follows: * * * * *

OHIO—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated Area	Designation	
	Date	Type
Campbell-Clermont Counties, KY–OH ¹ Clermont County (part). Pierce Township.	10/4/13	Nonattainment.
Lake County, OH ¹ Lake County.	10/4/13	Nonattainment.
Muskingum River, OH ¹ Morgan County (part). Center Township. Washington County (part). Waterford Township.	10/4/13	Nonattainment.
Steubenville, OH–WV ¹ Jefferson County (part). Cross Creek Township, Steubenville Township, Warren Township, Wells Township, Steubenville City.	10/4/13	Nonattainment.
Gallia County, OH ¹ Gallia County. Miegs County (part). Bedford, Columbia, Rutland, Salem, Salisbury, and Scipio Townships.	9/12/16	Unclassifiable.
Clermont County, Ohio ² Clermont County (part). Clermont County excluding Pierce Township.	9/12/16	Unclassifiable/Attainment.

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

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

* * * * *
 ■ 21. Section 81.337 is amended by adding a new table entitled “Oklahoma—2010 Sulfur Dioxide

NAAQS (Primary)” following the table “Oklahoma—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:
§ 81.337 Oklahoma.
 * * * * *

OKLAHOMA—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated area	Designation	
	Date	Type
Choctaw County, OK ¹ Choctaw County.	9/12/16	Unclassifiable/Attainment.
Noble County, OK ¹ Noble County.	9/12/16	Unclassifiable/Attainment.

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

* * * * *
 ■ 22. Section 81.342 is amended by adding a new table entitled “South Dakota—2010 Sulfur Dioxide NAAQS

(Primary)” following the table “South Dakota—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:
§ 81.342 South Dakota.
 * * * * *

SOUTH DAKOTA—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated area	Designation	
	Date	Type
Grant County, SD ¹ Grant County.	9/12/16	Unclassifiable/Attainment.

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

* * * * *
 ■ 23. Section 81.343 is amended by revising the table entitled “Tennessee—

2010 Sulfur Dioxide NAAQS (Primary)” to read as follows:
§ 81.343 Tennessee.
 * * * * *

TENNESSEE—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated area	Designation	
	Date	Type
Sullivan County, TN ¹ Sullivan County (part). That portion of Sullivan County encompassing a circle having its center at the B-253 power house coordinates 36.5186 N.; 82.5350 W. and having a 3-kilometer radius.	10/4/13	Nonattainment.
Sumner County, TN ¹ Sumner County.	9/12/16	Unclassifiable.

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

* * * * *
 ■ 24. Section 81.344 is amended by adding a new table entitled “Texas—

2010 Sulfur Dioxide NAAQS (Primary)” following the table “Texas—1971 Sulfur Dioxide NAAQS (Primary and Secondary)” to read as follows:
§ 81.344 Texas.
 * * * * *

TEXAS—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated area	Designation	
	Date	Type
Potter County, TX ¹ Potter County, TX.	9/12/16	Unclassifiable.
Atascosa County, TX ¹ Atascosa County, TX.	9/12/16	Unclassifiable/Attainment.
Fort Bend County, TX ¹ Fort Bend County, TX.	9/12/16	Unclassifiable/Attainment.

TEXAS—2010 SULFUR DIOXIDE NAAQS—Continued
 [Primary]

Designated area	Designation	
	Date	Type
Fort Bend County. Goliad County, TX ¹	9/12/16	Unclassifiable/Attainment.
Goliad County. Lamb County, TX ¹	9/12/16	Unclassifiable/Attainment.
Lamb County. Limestone County, TX ²	9/12/16	Unclassifiable/Attainment.
Limestone County. McLennan County, TX ²	9/12/16	Unclassifiable/Attainment.
McLennan County, TX. Robertson County, TX ²	9/12/16	Unclassifiable/Attainment.
Robertson County.		

¹ Excludes Indian country located in each area, if any, unless otherwise specified.
² Includes Indian country located in each area, if any, unless otherwise specified.

* * * * *

2010 Sulfur Dioxide NAAQS (Primary)”

§ 81.350 Wisconsin.

* * * * *

■ 25. Section 81.350 is amended by revising the table entitled “Wisconsin—

WISCONSIN—2010 SULFUR DIOXIDE NAAQS
 [Primary]

Designated area	Designation	
	Date	Type
Rhineland, WI ¹	10/4/13	Nonattainment.
Oneida County (part). City of Rhineland, Crescent Town, Newbold Town, Pine Lake Town, and Pelican Town. Columbia County, WI ²	9/12/16	Unclassifiable/Attainment.
Columbia County.		

¹ Excludes Indian country located in each area, if any, unless otherwise specified.
² Includes Indian country located in each area, if any, unless otherwise specified.

* * * * *

[FR Doc. 2016-16348 Filed 7-11-16; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 4

[ET Docket No. 04-35; FCC 16-63]

Disruptions to Communications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this *Report and Order*, the Commission updates several of its outage reporting metrics, methodologies, and procedures for a number of providers covered in the Commission’s rules concerning disruptions to communications and directs the Public Safety and Homeland Security Bureau (Bureau) to further evaluate issues related to the sharing of information from the Commission’s Network Outage Reporting System (NORS) with state and federal partners. The *Order on Reconsideration* limits

outage reporting for events affecting airports to outages that impact airport critical communications, and exempts satellite and terrestrial wireless carriers from reporting outages affecting all “special offices and facilities.”

DATES: The final rules are effective August 11, 2016, except 47 CFR 4.5(b) and (c), 4.7(d) and (e)(2), and 4.9 (a)(2), the second sentence in paragraph (a)(4), the second and sixth sentence in paragraph (b), (e), (f)(2), and the second sentence in paragraph (f)(4) which contain new or modified information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Brenda D. Villanueva, Attorney Advisor, Public Safety and Homeland Security Bureau, (202) 418-7005 or brenda.villanueva@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s *Report and Order* and *Order on Reconsideration* in PS Docket Nos. 11-82 and 15-80 and ET Docket No. 04-35, adopted on May 25, 2016, and released

on May 26, 2016. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street SW., Washington, DC 20554, or online at https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-63A1.pdf. This Order updates several of the Commission’s outage reporting metrics, methodologies, and procedures for a number of providers covered under its part 4 rules concerning disruptions to communications and directs the Public Safety and Homeland Security Bureau (Bureau) to further evaluate issues related to the sharing of information from the Commission’s NORS program with state and federal partners.

Synopsis of the Report and Order

I. Report and Order

1. Codified in part 4 of our rules, outage reporting requirements support our public safety goals by directing providers to report network outages that exceed specified magnitude and duration thresholds. Outage data give the Commission an overall picture of communications network reliability that

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

SOUTHERN ILLINOIS POWER
COOPERATIVE,

Petitioner,

v.

U.S. ENVIRONMENTAL PROTECTION
AGENCY and GINA MCCARTHY,
ADMINISTRATOR,

Respondents.

Case No. _____

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Petition for Judicial Review and Rule 26.1

Statement have been served by first-class U.S. mail postage prepaid on this 9th day of
September, 2016, upon each of the following:

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/s/ J. Michael Showalter
J. Michael Showalter