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**(h) Related Information**

Refer to MCAI European Union Aviation Safety Agency (EASA) AD No. 2019-0166, dated July 15, 2019. You may examine the MCAI on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0753. For service information related to this AD, contact Pilatus Aircraft Ltd., Customer Technical Support (MCC), P.O. Box 992, CH-6371 Stans, Switzerland; telephone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: [Techsupport@pilatus-aircraft.com](mailto:Techsupport@pilatus-aircraft.com); internet: <https://www.pilatus-aircraft.com/en>. You may review this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

Issued on August 26, 2020.

**Gaetano A. Sciortino,**

*Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 81**

[EPA-HQ-OAR-2020-0292; FRL-10013-35-OAR]

**Redesignation of Certain Unclassifiable Areas for the 2010 1-Hour Sulfur Dioxide (SO<sub>2</sub>) Primary National Ambient Air Quality Standard (NAAQS)**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to

redesignate certain unclassifiable areas designated during the EPA’s Round 2 air quality designations for the 2010 1-Hour Sulfur Dioxide (SO<sub>2</sub>) Primary National Ambient Air Quality Standard (NAAQS). Specifically, the EPA believes that it now has sufficient information to determine that certain unclassifiable areas in Missouri, Nebraska, Ohio, and Texas are attaining the 2010 1-hour SO<sub>2</sub> primary NAAQS, and, therefore, is proposing to redesignate these areas to attainment/unclassifiable for the 2010 1-hour SO<sub>2</sub> primary NAAQS.

**DATES:** Comments must be received on or before October 2, 2020.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2020-00292, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to our public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, Cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

The EPA is temporarily suspending its Docket Center and Reading Room for public visitors, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer

service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov>/ as there may be a delay in processing mail and faxes. Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on the EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

Send information identified as CBI only to the following address: Tiffany Purifoy, OAQPS Document Control Officer, U.S. EPA, Office of Air Quality Planning and Standards, 109 T.W. Alexander Drive, Mail Code C404-02, Research Triangle Park, NC 27711, Attention Docket ID No. EPA-HQ-OAR-2020-0292. There will be a delay in confirming receipt of CBI packages, because the EPA-RTP office is closed to reduce the risk of transmitting COVID-19. Due to the office closure, the EPA is also requesting that parties notify the OAQPS Document Control Officer via telephone at (919) 541-0878 or email at [purifoy.tiffany@epa.gov](mailto:purifoy.tiffany@epa.gov) when mailing information identified as CBI.

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID-19.

**FOR FURTHER INFORMATION CONTACT:** For general questions concerning this action, please contact Ashley Keas, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, C539-04, Research Triangle Park, NC 27709, by email at [keas.ashley@epa.gov](mailto:keas.ashley@epa.gov), or Gobeail McKinley, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, C539-04, Research Triangle Park, NC 27709, by email at [mckinley.gobeail@epa.gov](mailto:mckinley.gobeail@epa.gov). The following EPA contacts can answer questions regarding areas in a particular EPA Regional office:

**U.S. EPA REGIONAL OFFICE CONTACTS**

Regional office	Affected state	Contact	Telephone	Email
Region V .....	Ohio .....	Mary Portanova .....	(312) 353-5954	<a href="mailto:portanova.mary@epa.gov">portanova.mary@epa.gov</a>
Region VI .....	Texas .....	Robert Imhoff .....	(214) 665-7262	<a href="mailto:imhoff.robert@epa.gov">imhoff.robert@epa.gov</a>
Region VII .....	Missouri, Nebraska .....	Will Stone .....	(913) 551-7714	<a href="mailto:stone.william@epa.gov">stone.william@epa.gov</a>

The information can also be reviewed online at <https://www.epa.gov/sulfur-dioxide-designations> and also in the public docket for these SO<sub>2</sub> redesignations at <https://www.regulations.gov>

under Docket ID No. EPA-HQ-OAR-2020-0292.

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” or “our” means the EPA.

**I. Background**

The Clean Air Act (CAA or Act) establishes a process for air quality management through the establishment and implementation of the NAAQS.

After the promulgation of a new or revised NAAQS, the EPA is required to designate all areas of the country, pursuant to section 107(d)(1)–(2) of the CAA. For the 2010 SO<sub>2</sub> primary NAAQS, designations are based on the EPA's application of the nationwide analytical approach to, and technical assessment of, the weight of evidence for each area, including but not limited to available air quality monitoring data and air quality modeling results. In advance of designating the areas that are the subject of this proposed redesignation, the EPA issued updated designations guidance 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 titled, “Updated Guidance for Area Designations for the 2010 Primary Sulfur Dioxide National Ambient Air Quality Standard,” which contains the factors the EPA evaluated in determining the appropriate designations and associated boundaries, including: (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. The guidance also references the EPA's non-binding Monitoring Technical Assistance Document (Monitoring TAD) that existed at that time.<sup>1</sup>

The EPA completed the first set of initial area designations for the 2010 1-hour SO<sub>2</sub> NAAQS in 2013 (Round 1). Pursuant to a March 2, 2015, consent decree and court-ordered schedule, the EPA finalized a second set of initial area designations for the 2010 1-hour SO<sub>2</sub> NAAQS in 2016 (Round 2). The March 2, 2015, consent decree identified the following emissions criteria such that the EPA must designate, in Round 2, an area surrounding any stationary source which had (a) annual emissions in 2012 exceeding 16,000 tons of SO<sub>2</sub>, or (b) both an annual average emissions rate of at least 0.45 pounds of SO<sub>2</sub> per one million British thermal units (lbs SO<sub>2</sub>/mmBTU), according to the EPA's Clean Air Markets Division Database, and annual emissions of at least 2,600 tons of SO<sub>2</sub> in 2012. Areas in Missouri, Nebraska, Ohio, and Texas, each contained one source that met these Round 2 criteria. The EPA evaluated each area, using the

<sup>1</sup> The version of the EPA's “SO<sub>2</sub> NAAQS Designations Source-Oriented Monitoring Technical Assistance Document” (Monitoring TAD) available at the time of the Round 2 designations action was released in December 2013. The current version of the Monitoring TAD was released in February 2016 and superseded the version released in December 2013.

five factors identified previously, during the Round 2 designations. Specifically, as discussed further in Section III of this document, the Franklin County area in Missouri contains the Labadie Energy Center; the Lancaster County area in Nebraska contains Sheldon Station; the Gallia County area in Ohio contains the Gavin Plant; and the Milam County area in Texas contains the Sandow Plant.

The March 20, 2015, guidance also specified the designation category definitions to be used in the Round 2 designations. Specifically, the EPA defined: A “nonattainment” area as an area that the EPA has determined violates the 2010 SO<sub>2</sub> NAAQS based on the most recent 3 years of ambient air quality monitoring data or an appropriate modeling analysis, or that the EPA has determined contributes to a violation in a nearby area; an “attainment” area as an area that the EPA has determined meets the 2010 SO<sub>2</sub> NAAQS and does not contribute to a violation of the NAAQS in a nearby area based on either: (a) the most recent 3 years of ambient air quality monitoring data from a monitoring network in an area that is sufficient to be compared to the NAAQS per the EPA interpretations in the Monitoring TAD, or (b) an appropriate modeling analysis. As discussed further in Section III of this document, the EPA was unable to determine whether the areas in Missouri, Nebraska, Ohio, and Texas that are the subject of this action, met the definition of a nonattainment area or the definition of an attainment area based on the available information at the time of the Round 2 designations. As a result, the EPA designated each of these four areas as unclassifiable in the Round 2 designations published on July 12, 2016, and December 13, 2016.<sup>2</sup>

Detailed rationale, analyses, and other information supporting our initial designation for these four areas can be found in the intended and final Round 2 designations' technical support documents for Missouri, Nebraska, Ohio, and Texas, respectively. These Round 2 documents, along with all other supporting materials for the initial 2010 1-hour SO<sub>2</sub> primary NAAQS designations for these areas, can be found on the EPA's SO<sub>2</sub> designations website.<sup>3</sup> Specific technical support documents (TSDs) for the covered states are referenced and linked in later sections of this notice.

<sup>2</sup> See actions published on July 12, 2016 (81 FR 45039) and December 13, 2016 (81 FR 89870).

<sup>3</sup> <https://www.epa.gov/sulfur-dioxide-designations>.

## II. What are the criteria for redesignating an area from unclassifiable to attainment/unclassifiable?

CAA Section 107(d)(3)(A) provides that the Administrator may notify the Governor of any state that the designation of an area should be revised “on the basis of air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate.”<sup>4</sup> The Act further provides in section 107(d)(3)(D) that even if the Administrator has not notified a state Governor that a designation should be revised, the Governor of any state may, on the Governor's own motion, submit a request to revise the designation of any area, and the Administrator must approve or deny the request. In keeping with CAA section 107(d)(3)(A), areas that are redesignated to attainment/unclassifiable<sup>5</sup> must meet the requirements for attainment areas and thus must meet the relevant NAAQS. In addition, the area must not contribute to ambient air quality in a nearby area that does not meet the NAAQS. See the definitions for nonattainment area, attainment area, and unclassifiable area in CAA section 107(d)(1)(A)(i)–(iii).

In its designations under the 2010 SO<sub>2</sub> NAAQS, the EPA has generally defined an attainment/unclassifiable area as an area that meets the NAAQS and does not contribute to ambient air quality in a nearby area that does not meet the NAAQS. We are proposing to find that these specific areas now meet this definition of attainment/unclassifiable based on the available valid monitoring data in each area that demonstrates attainment, *i.e.*, no violations of and not contributing to a nearby area that is not meeting the 2010 1-hour SO<sub>2</sub> NAAQS. The EPA finds this information sufficient for the purposes of redesignating an area from unclassifiable to attainment/unclassifiable, similar to initial

<sup>4</sup> While CAA section 107(d)(3)(E) also lists specific requirements for redesignations, those requirements only apply to redesignations of nonattainment areas to attainment and, therefore, are not applicable in the context of a redesignation of an area from unclassifiable to attainment/unclassifiable.

<sup>5</sup> Historically, the EPA has designated most areas that do not meet the definition of nonattainment as “unclassifiable/attainment.” The EPA has reversed the order of the label to be “attainment/unclassifiable” to better convey the definition of the designation category and so that the category is more easily distinguished from the separate unclassifiable category. See 83 FR 1098 (January 9, 2018) and 83 FR 25776 (June 4, 2018). The EPA reserves the “attainment” category for when the EPA redesignates a nonattainment area that has attained the relevant NAAQS and has an approved maintenance plan.

designations, where the inquiry is also whether the area is factually attaining the NAAQS, based on actual and current air quality data. Such redesignations are functionally similar to initial designations and are not subject to CAA section 107(d)(3)(E), which, amongst other things, requires attainment to be due to permanent and enforceable measures and which requires a demonstration that the area will maintain the NAAQS for 10 years.

For the areas in Nebraska, Ohio, and Texas, those states have submitted formal requests<sup>6</sup> to the EPA to redesignate those areas from unclassifiable to attainment/unclassifiable.<sup>7</sup> Therefore, the EPA is proposing in this action to approve those requests and redesignate the areas based on the available monitoring data in those areas. For the area in Missouri, for which the EPA has not received a formal request to redesignate the area, the EPA is concurrently notifying the Governor of its recommendation that the area be redesignated to attainment/unclassifiable per CAA section 107(d)(3)(A), based on the currently available information that demonstrates attainment of the 2010 1-hour SO<sub>2</sub> NAAQS.<sup>8</sup> The EPA is issuing this proposal concurrently with notification to the state in anticipation of the statutory timeframe provided under CAA section 107(d)(3)(B) and (C).

### III. What is the EPA's rationale for proposing to redesignate these areas?

As previously mentioned, the EPA designated each of these areas as unclassifiable in the Round 2 designations published on July 12, 2016 (intended designations) and December 13, 2016 (final designations). As discussed in this section, information available for each of these areas at the time of the Round 2 designations was

<sup>6</sup> These redesignation requests are included in the docket for this action.

<sup>7</sup> Ohio's April 27, 2020, letter requested that the Gallia County area be designated attainment/unclassifiable as part of the EPA's Round 4 designation process. As the Gallia County area was already designated unclassifiable in Round 2, the EPA is treating Ohio's April 27, 2020, letter as a redesignation request pursuant to CAA section 107(d)(3)(D).

<sup>8</sup> On June 26, 2020, the Missouri Department of Natural Resources posted a redesignation request for the Franklin County area on its website for public comment as part of the state's public process. Missouri expects to submit the request to the EPA in the coming months.

inconclusive and therefore the EPA was unable to make a determination of the area's attainment status. For each of these areas, the states selected the monitoring pathway for purposes of air quality characterization pursuant to the EPA's SO<sub>2</sub> Data Requirements Rule (DRR) (80 FR 51052, August 21, 2015). For each of these areas, the state either identified existing SO<sub>2</sub> monitors and/or installed and began operating new monitors in accordance with the DRR.<sup>9</sup> These monitors now have complete 3-year design values for the 2017–2019 period. Specifically, each area now has at least one monitor with a complete, valid 3-year design value that is attaining the 2010 1-hour SO<sub>2</sub> NAAQS.

#### A. Franklin and St. Charles Counties, Missouri

The Franklin County area contains a stationary source, the Ameren Labadie Energy Center (Labadie), that met the Round 2 criteria, discussed in Section I of this document, requiring the EPA to designate this area in 2016, under the March 2, 2015, court-ordered schedule. In its September 25, 2015, submission, regarding the second round of designations, Missouri recommended that the area surrounding Labadie be designated as unclassifiable. After review of all available information at that time, including modeling provided by the state, Ameren, and Sierra Club with differing results and uncertainties, the EPA was unable to determine the area's attainment status. Therefore, the EPA designated portions of Franklin and St. Charles Counties as unclassifiable in Round 2 of designations for the 2010 1-hour SO<sub>2</sub> primary NAAQS.<sup>10 11</sup>

<sup>9</sup> Analyses used to support the siting of these monitors are discussed in each state's 2016 or 2017 annual monitoring network plans.

<sup>10</sup> For more information on the EPA's Round 2 designations, see: <https://www.epa.gov/sulfur-dioxide-designations/epa-completes-second-round-sulfur-dioxide-designations> For the intended and final TSDs specific to Missouri, see: <https://www.epa.gov/sites/production/files/2016-03/documents/mo-epa-tds-r2.pdf> and [https://www.epa.gov/sites/production/files/2016-07/documents/r7\\_mo\\_final\\_designation\\_tsd\\_07012016.pdf](https://www.epa.gov/sites/production/files/2016-07/documents/r7_mo_final_designation_tsd_07012016.pdf).

<sup>11</sup> On September 8, 2016, Sierra Club submitted a petition for reconsideration of the final unclassifiable designation of the Franklin County area. In a January 18, 2017, letter, the EPA responded to Sierra Club's petition for reconsideration, stating that the EPA intended to initiate a new rulemaking process to be concluded by December 31, 2020, in which the Agency would

Pursuant to requirements under the DRR to characterize the air quality in the area around Labadie, Missouri identified existing monitors and installed additional monitors around Labadie and began collecting data at these monitors by January 1, 2017.<sup>12</sup>

As part of this proposed action, the EPA considered design values for air quality monitors in Franklin and St. Charles Counties, in the Labadie area, by assessing the most recent 3 consecutive years (*i.e.*, 2017–2019) of quality-assured, certified ambient air quality data in the EPA Air Quality System (AQS) using data from Federal Reference Method (FRM) and Federal Equivalent Method (FEM) monitors that are sited and operated in accordance with 40 CFR parts 50 and 58.<sup>13</sup> Procedures for using monitored air quality data to determine whether a violation has occurred are given in 40 CFR part 50 Appendix T, as revised in the 2010 SO<sub>2</sub> NAAQS rulemaking. The 2010 1-hour SO<sub>2</sub> NAAQS is met when the design value is 75 parts per billion (ppb) or less. Whenever several monitors are located in an area, the design value for the area is determined by the monitor with the highest valid design value. Table 1 contains the 2017–2019 design values for the monitors in this area. The monitor with the highest design value is the North site (Site ID: 29–183–9004). Although one of the monitors in this area, the Valley site (Site ID: 29–071–9001), does not have a valid design value for this period, the remaining three monitors all have valid design values and are all attaining the NAAQS. Therefore, data collected at these monitors indicate that this area is in attainment of the 2010 1-hour SO<sub>2</sub> NAAQS.

evaluate the monitoring data for the area anticipated to be newly available at that time. Sierra Club also filed a petition for judicial review of the Round 2 designations that included this area; that litigation is currently in abeyance in the D.C. Circuit. Finalizing this proposed action would constitute the evaluation contemplated by the EPA's January 18, 2017, letter. This letter is available on our website here: <https://www.epa.gov/sulfur-dioxide-designations/reconsideration-requests-areas-illinois-missouri-and-ohio>.

<sup>12</sup> More details on the analyses used to support the monitor placement are contained in the state's 2016 annual monitoring network plan.

<sup>13</sup> SO<sub>2</sub> air quality data are available from the EPA's website at <https://www.epa.gov/outdoor-air-quality-data>. SO<sub>2</sub> air quality design values are available at <https://www.epa.gov/air-trends/air-quality-design-values>.

TABLE 1—2010 SO<sub>2</sub> NAAQS DESIGN VALUES FOR THE FRANKLIN COUNTY AREA

AQS site ID	Monitor location (latitude, longitude)	2017 99th percentile (ppb)	2018 99th percentile (ppb)	2019 99th percentile (ppb)	2017–2019 design value (ppb)
29–071–9001 *	Valley (38.572522, –90.796911) .....	25	38	21	28
29–071–9002	Southwest (38.52814, –90.86326) .....	22	20	30	24
29–183–9002	Northwest (38.581799, –90.865528) .....	21	17	19	19
29–183–9004	North (38.595607, –90.830618) .....	30	22	36	29

\* This monitor does not have a valid design value, but all remaining monitors in the area do have valid design values that are below the level of the NAAQS.

Under the EPA’s authority to undertake a redesignation action <sup>14</sup> under CAA section 107(d)(3)(A), and reviewing all available information, we are proposing to find that the 3 years of monitored ambient SO<sub>2</sub> data from the existing and new monitors adequately characterize the SO<sub>2</sub> air quality in Franklin and St. Charles Counties and demonstrate attainment of the 2010 1-hour SO<sub>2</sub> NAAQS in the same area. Specifically, the data from these monitors indicate there are no violations in this area. Additionally, there is no evidence of monitored or modeled violations in the surrounding counties <sup>15</sup> such that the source is not contributing to any nearby area that does not meet the NAAQS. The EPA is, therefore, proposing to redesignate the portions of Franklin and St. Charles Counties in Missouri that were designated as unclassifiable in July 2016, to attainment/unclassifiable based on the currently available information that demonstrates attainment of the 2010 1-hour SO<sub>2</sub> NAAQS.

*B. Lancaster County, Nebraska*

The Lancaster County area contains a stationary source, the Nebraska Public Power District’s (NPPD) Sheldon Station (Sheldon), that met the Round 2 criteria, discussed in Section I of this document, requiring the EPA to designate this area in 2016, under the March 2, 2015, court-ordered schedule. In its September 18, 2015, submission regarding the second round of designations, Nebraska recommended that the area surrounding Sheldon be designated as unclassifiable. After review of all available information at that time, including modeling results from the state and Sierra Club with differing results and uncertainties, the EPA was unable to determine the area’s attainment status and designated Lancaster County as unclassifiable in Round 2 of designations for the 2010 1-hour SO<sub>2</sub> primary NAAQS.<sup>16</sup>

Pursuant to requirements under the DRR to characterize the air quality in the area around Sheldon, Nebraska installed a new monitor near the source to begin collecting data at this monitor by January 1, 2017.<sup>17</sup>

On May 6, 2020, Nebraska submitted a letter <sup>18</sup> to the EPA requesting that the

entirety of Lancaster County, containing Sheldon Station, be redesignated to attainment/unclassifiable based on the newly available monitoring information, which demonstrates attainment of the 2010 1-hour SO<sub>2</sub> NAAQS. To evaluate Nebraska’s redesignation request, the EPA considered the design value for the air quality monitor in Lancaster County, in the Sheldon area, by assessing the most recent 3 consecutive years (*i.e.*, 2017–2019) of quality-assured, certified ambient air quality data in the EPA AQS using data from FRM and FEM monitors that are sited and operated in accordance with 40 CFR parts 50 and 58.<sup>19</sup> Procedures for using monitored air quality data to determine whether a violation has occurred are given in 40 CFR part 50 Appendix T, as revised in the 2010 SO<sub>2</sub> NAAQS rulemaking. As noted previously, the 2010 1-hour SO<sub>2</sub> NAAQS is met when the design value is 75 ppb or less. Table 2 contains the 2017–2019 design value for this area. Data collected at this monitor indicate that this area is in attainment of the NAAQS.

TABLE 2—2010 SO<sub>2</sub> NAAQS DESIGN VALUE FOR THE LANCASTER COUNTY AREA

AQS site ID	Monitor location (latitude, longitude)	2017 99th percentile (ppb)	2018 99th percentile (ppb)	2019 99th percentile (ppb)	2017–2019 design value (ppb)
31–109–0025	SW 42nd Street (40.554760, –96.780350) .....	44	10	33	29

After reviewing Nebraska’s request under CAA section 107(d)(3)(D) and all available information, we are proposing to find that the 3 years of monitored ambient SO<sub>2</sub> data from the new monitor

adequately characterize the SO<sub>2</sub> air quality in Lancaster County and demonstrate attainment of the 2010 1-hour SO<sub>2</sub> NAAQS in the same area. Specifically, the data from this monitor

indicate there are no violations in this area. Additionally, there is no evidence of monitored or modeled violations in the surrounding counties such that the source is not contributing to any nearby

<sup>14</sup> On June 26, 2020, the Missouri Department of Natural Resources posted a redesignation request for the Franklin County area on its website for public comment as part of the state’s public process. Missouri expects to submit the request to the EPA in the coming months.

<sup>15</sup> While a portion of neighboring Jefferson County is currently designated as nonattainment for the 2010 SO<sub>2</sub> NAAQS, the EPA determined in a final action published on September 13, 2017, that this area is now attaining the NAAQS per the EPA’s clean data policy. See 82 FR 42945.

<sup>16</sup> For more information on the EPA’s Round 2 designations, see <https://www.epa.gov/sulfur-dioxide-designations/epa-completes-second-round-sulfur-dioxide-designations>. For the intended and final TSDs specific to Nebraska, see <https://www.epa.gov/sites/production/files/2016-03/documents/ne-epa-tds-r2.pdf> and [https://www.epa.gov/sites/production/files/2016-07/documents/r7\\_ne\\_final\\_designation\\_tsd\\_06302016.pdf](https://www.epa.gov/sites/production/files/2016-07/documents/r7_ne_final_designation_tsd_06302016.pdf).

<sup>17</sup> More details on the analyses used to support the monitor placement are contained in the state’s 2016 annual monitoring network plan.

<sup>18</sup> This letter is included in the docket for this action.

<sup>19</sup> SO<sub>2</sub> air quality data are available from the EPA’s website at <https://www.epa.gov/outdoor-air-quality-data>. SO<sub>2</sub> air quality design values are available at <https://www.epa.gov/air-trends/air-quality-design-values>.

area that does not meet the NAAQS. The EPA is therefore proposing to approve Nebraska's redesignation request and proposing to redesignate the entirety of Lancaster County that was designated as unclassifiable in July 2016, to attainment/unclassifiable based on the currently available information that demonstrates attainment of the 2010 1-hour SO<sub>2</sub> NAAQS.

#### C. Gallia and Meigs Counties, Ohio

The Gallia County area contains a stationary source, the General James M. Gavin power plant (Gavin plant), that met the Round 2 criteria, discussed in Section I of this document, requiring the EPA to designate this area in 2016, under the March 2, 2015, court-ordered schedule. In its September 16, 2015, submission, regarding the second round of designations, Ohio recommended that the area surrounding the Gavin plant be designated as attainment based on a modeling demonstration. After review of all available information at that time,

including modeling provided by both the state and Sierra Club with differing results and uncertainties, the EPA was unable to determine the area's attainment status. Therefore, the EPA designated the entirety of Gallia County and a portion of Meigs County as unclassifiable in Round 2 of the designations for the 2010 1-hour SO<sub>2</sub> primary NAAQS.<sup>20 21</sup>

Pursuant to requirements under the DRR to characterize the air quality in the area around the Gavin plant and another nearby power plant,<sup>22</sup> Ohio installed four monitors in Gallia County, Ohio and Mason County, West Virginia, to begin collecting data at these monitors by January 1, 2017.<sup>23</sup>

On April 27, 2020, Ohio submitted a letter<sup>24</sup> to the EPA requesting that the entirety of Gallia County and the unclassifiable portion of Meigs County be redesignated to attainment/unclassifiable based on monitoring information demonstrating attainment. To evaluate Ohio's redesignation

request, the EPA considered the design values for the air quality monitors in Gallia County, Ohio and Mason County, West Virginia, in the Gallia County area, by assessing the most recent 3 consecutive years (*i.e.*, 2017–2019) of quality-assured, certified ambient air quality data in the EPA AQS using data from FRM and FEM monitors that are sited and operated in accordance with 40 CFR parts 50 and 58.<sup>25</sup> Procedures for using monitored air quality data to determine whether a violation has occurred are given in 40 CFR part 50 Appendix T, as revised in the 2010 SO<sub>2</sub> NAAQS rulemaking. Whenever multiple monitors are located in an area, the design value for the area is determined by the monitor with the highest valid design value. Table 3 contains the 2017–2019 design values for the Gallia County area. Data collected at these monitors indicate that this area attains the 2010 1-hour SO<sub>2</sub> NAAQS set at 75 ppb.

TABLE 3—2010 SO<sub>2</sub> NAAQS DESIGN VALUES FOR THE GALLIA COUNTY AREA

AQS site ID	Monitor location (latitude, longitude)	2017 99th percentile (ppb)	2018 99th percentile (ppb)	2019 99th percentile (ppb)	2017–2019 design value (ppb)
39–053–0005	Ridge monitor 583 Honeysuckle Dr. (38.89495, –82.14893).	34	38	54	42
39–053–0004	Cheshire school monitor Watson Grove Rd. (38.95018, –82.12211).	27	41	54	41
39–053–0006	Guiding Hand monitor 323 SR 7 North (38.949450, –82.110400).	38	28	54	40
54–053–0001	Lakin monitor Mason County, WV (38.95649, –82.08866)	35	57	61	51

After reviewing Ohio's request under CAA section 107(d)(3)(D) and all available information, we are proposing to find that the 3 years of monitored ambient SO<sub>2</sub> data from the four new monitors adequately characterize the SO<sub>2</sub> air quality in Gallia and Meigs Counties and demonstrate attainment of the 2010 1-hour SO<sub>2</sub> NAAQS in the same area. Specifically, the data from these monitors indicate there are no violations in this area. Additionally, there is no evidence of monitored or modeled violations in the surrounding counties such that the source is not

contributing to any nearby area that does not meet the NAAQS. The EPA is therefore proposing to approve Ohio's redesignation request and proposing to redesignate the entirety of Gallia County and the portion of Meigs County, that were designated as unclassifiable in July 2016, to attainment/unclassifiable based on the currently available information that demonstrates attainment of the 2010 1-hour SO<sub>2</sub> NAAQS.

#### D. Milam County, Texas

The Milam County area contains a stationary source, the Luminant

Generation Company's Sandow 5 Generating Plant (Sandow plant), that met the Round 2 criteria, discussed in Section I of this document, requiring the EPA to designate this area in 2016, under the March 2, 2015, court-ordered schedule. In its September 18, 2015, submission, regarding Round 2 of designations, Texas noted that it was not able to model all the sources impacted in that round of designations and therefore did not provide a technical analysis for the Milam County area nor did the state provide an updated recommendation for this area

<sup>20</sup> For more information on EPA's Round 2 designations, see <https://www.epa.gov/sulfur-dioxide-designations/epa-completes-second-round-sulfur-dioxide-designations> For the intended and final TSDs specific to Ohio, see <https://www.epa.gov/sites/production/files/2016-03/documents/oh-epa-td-r2.pdf> and [https://www.epa.gov/sites/production/files/2016-07/documents/r5\\_oh\\_final\\_designation\\_tsd\\_06302016.pdf](https://www.epa.gov/sites/production/files/2016-07/documents/r5_oh_final_designation_tsd_06302016.pdf).

<sup>21</sup> On January 6, 2017, Sierra Club submitted a petition for reconsideration of the final unclassifiable designation of the Gallia County area. In a January 18, 2017, letter, the EPA responded to Sierra Club's petition for reconsideration, stating

that the EPA intended to initiate a new rulemaking process to be concluded by December 31, 2020, in which the Agency would evaluate the monitoring data for the area anticipated to be newly available at that time. Finalizing this proposed action would constitute the evaluation contemplated by the EPA's January 18, 2017, letter. This letter is available on our website <https://www.epa.gov/sulfur-dioxide-designations/reconsideration-requests-areas-illinois-missouri-and-ohio>.

<sup>22</sup> Kyger Creek Station is approximately 2.5 kilometers southwest of the Gavin plant and was also a source required to be characterized under the EPA's SO<sub>2</sub> Data Requirements Rule.

<sup>23</sup> More details on the analyses used to support the monitor placement are contained in the state's 2016 and 2017 annual monitoring network plans.

<sup>24</sup> This letter is included in the docket for this action. As discussed in Section II of this document, the EPA is treating Ohio's April 27, 2020, letter as a request for redesignation under CAA section 107(d)(3)(D).

<sup>25</sup> SO<sub>2</sub> air quality data are available from EPA's website at <https://www.epa.gov/outdoor-air-quality-data>. SO<sub>2</sub> air quality design values are available at <https://www.epa.gov/air-trends/air-quality-design-values>.

but rather reiterated its previous recommendation for areas without existing monitors to be designated as unclassifiable/attainment. After review of all available information at that time, the EPA was unable to determine the area's attainment status based on the lack of information and designated the entirety of Milam County, Texas, as unclassifiable in Round 2 of designations for the 2010 1-hour SO<sub>2</sub> primary NAAQS.<sup>26</sup>

Pursuant to requirements under the DRR to characterize the air quality in the area around Sandow, Texas installed a new monitor near Sandow to begin

collecting data at this monitor by January 1, 2017.<sup>27</sup>

On June 26, 2020, Texas submitted a letter<sup>28</sup> to the EPA requesting that the entirety of Milam County be redesignated to attainment/unclassifiable based on the newly available monitoring information which demonstrates attainment. To evaluate Texas' redesignation request, the EPA considered the design value for the air quality monitor in Milam County, in the Sandow area, by assessing the most recent 3 consecutive years (*i.e.*, 2017–2019) of quality-assured, certified ambient air quality data in the EPA AQS

using data from FRM and FEM monitors that are sited and operated in accordance with 40 CFR parts 50 and 58.<sup>29</sup> Procedures for using monitored air quality data to determine whether a violation has occurred are given in 40 CFR part 50 Appendix T, as revised in the 2010 SO<sub>2</sub> NAAQS rulemaking. The 2010 1-hour SO<sub>2</sub> NAAQS is met when the design value is 75 ppb or less. Table 4 contains the 2017–2019 design value for this area. Data collected at this monitor indicate that this area is in attainment of the NAAQS.

TABLE 4—2010 SO<sub>2</sub> NAAQS DESIGN VALUES FOR THE MILAM COUNTY AREA

AQS site ID	Monitor location (latitude, longitude)	2017 99th percentile (ppb)	2018 99th percentile (ppb)	2019 99th percentile (ppb)	2017–2019 design value (ppb)
48–331–1075	3990 John D Harper Road (30.569534, –97.076294) .....	37	4	2	14

Texas' redesignation request to the EPA also indicated that the Sandow plant permanently ceased operations in January 2018. The EPA independently confirmed the plant is no longer permitted to operate.<sup>30</sup>

After reviewing Texas' request under CAA section 107(d)(3)(D) and all available information, we are proposing to find that the 3 years of monitored ambient SO<sub>2</sub> data from the new monitor adequately characterize the SO<sub>2</sub> air quality in Milam County and demonstrate attainment of the 2010 1-hour SO<sub>2</sub> NAAQS in the same area. Specifically, the data from this monitor indicate there are no violations in this area. Additionally, there is no evidence of monitored or modeled violations in the surrounding counties such that the source is not contributing to any nearby area that does not meet the NAAQS. The EPA is therefore proposing to approve Texas' redesignation request and proposing to redesignate the entirety of Milam County, that was designated as unclassifiable in December 2016, to attainment/unclassifiable based on the currently available information that demonstrates attainment of the 2010 1-hour SO<sub>2</sub> NAAQS.

<sup>26</sup> For more information on EPA's Round 2 designations, see <https://www.epa.gov/sulfur-dioxide-designations/epa-completes-second-round-sulfur-dioxide-designations>. For the intended and final TSDs specific to Texas, see <https://www.epa.gov/sites/production/files/2016-03/documents/tx-epa-td-r2.pdf> and [https://www.epa.gov/sites/production/files/2016-11/documents/texas\\_4\\_deferred\\_luminant\\_tsd\\_final\\_docket.pdf](https://www.epa.gov/sites/production/files/2016-11/documents/texas_4_deferred_luminant_tsd_final_docket.pdf)

#### IV. Proposed Action

The EPA is proposing to redesignate to attainment/unclassifiable the unclassifiable portions of Franklin and St. Charles Counties in Missouri; the entirety of Lancaster County in Nebraska; the entirety of Gallia County and the unclassifiable portion of Meigs County in Ohio; and the entirety of Milam County in Texas. Additionally, the EPA is proposing to approve requests for redesignation from the states of Nebraska, Ohio, and Texas. For the area in Missouri, the EPA is initiating this redesignation action under the authority of CAA section 107(d)(3)(A). As discussed in prior sections, this proposed action is based on the currently available monitoring data for these areas that demonstrate attainment of the 2010 1-hour SO<sub>2</sub> primary NAAQS. If finalized, this redesignation action and approval of the redesignation requests would change the legal designation for these listed areas, found at 40 CFR part 81, from unclassifiable to attainment/unclassifiable for the 2010 1-hour SO<sub>2</sub> primary NAAQS.

<sup>27</sup> More details on the analyses used to support the monitor placement are contained in the state's 2016 annual monitoring network plan.

<sup>28</sup> This letter is included in the docket for this action.

<sup>29</sup> SO<sub>2</sub> air quality data are available from EPA's website at <https://www.epa.gov/outdoor-air-quality-data>. SO<sub>2</sub> air quality design values are available at <https://www.epa.gov/air-trends/air-quality-design-values>.

<sup>30</sup> In a letter dated February 14, 2018, from Luminant to the Texas Commission on

#### V. Statutory and Executive Order Reviews

Under CAA section 107(d)(3), redesignation of an area to attainment/unclassifiable is an action that affects the status of a geographical area and does not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment/unclassifiable does not in and of itself create any new requirements. Accordingly, this proposed action merely proposes to redesignate an area to attainment/unclassifiable and does not impose additional requirements. For that reason, this proposed action:

- Is exempt from review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because it is exempt under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

Environmental Quality (TCEQ), Luminant requested to void Sandow permits 4980, PSDTX28, PSDTX28M1, 16684, 39718, 45425, 72521, 97146, and 125855. The remaining permits (NSR Permit 5473, PBR 87631, PBR 94625 and Standard Permit 108271) are material handling permits maintained while closure activities are completed, such as coal piles, silos, and conveyors. In a letter dated July 19, 2018, from the TCEQ to Luminant, TCEQ verified the air quality federal operating permit O54 for the Sandow plant was voided. These letters are included in the docket for this action.

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Is not subject because it does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it does not establish an environmental standard intended to mitigate health or safety risks;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards;
- Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994); and
- Does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) because no tribal lands are located within the areas covered in this action and the redesignation does not create new requirements. The EPA notes this proposed action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

**Anne Austin,**

*Principal Deputy Assistant Administrator,  
Office of Air and Radiation.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[GC Docket No. 20–221; FCC 20–92; FRS 16967]

### Updating the Commission’s Ex Parte Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission begins a new proceeding to consider several updates to the Commission’s *ex parte* rules. First, the Commission seeks comment on a proposal to exempt from its *ex parte* rules, in certain proceedings, government-to-government consultations between the Commission and federally recognized Tribal Nations.

Second, the Commission seeks comment on a proposal to extend the exemption to its *ex parte* rules for communications with certain program administrators, such as the Universal Service Administrative Company, to include the Toll-Free Numbering Administrator and the Reassigned Numbers Database Administrator, and to clarify the conditions under which this exemption applies. Third, the Commission seeks comment on a proposal to require that all written *ex parte* presentations and written summaries of oral *ex parte* presentations (other than presentations that are permitted during the Sunshine period) be submitted before the Sunshine period begins and to require that replies to these *ex parte* presentations be filed within the first day of the Sunshine period.

**DATES:** Comments due on or before October 2, 2020; reply comments due on or before November 2, 2020.

**FOR FURTHER INFORMATION CONTACT:** Mr. Max Staloff of the Office of General Counsel, at (202) 418–1764, or [Max.Staloff@fcc.gov](mailto:Max.Staloff@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s *Notice of Proposed Rulemaking*, GC Docket No. 20–221, FCC 20–92, adopted on July 8, 2020 and released on July 9, 2020. The full text of this document is available for public inspection by downloading the text from the Commission’s website at <https://www.fcc.gov/document/Updating-commissions-ex-parte-rules>. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or calling the Commission’s Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

### Synopsis

1. The Commission seeks comment on three proposals: (1) Exempting from Commission *ex parte* rules certain government-to-government consultations between Commission staff and leaders and official representatives of federally recognized Tribal Nations; (2) clarifying the *ex parte* exemption for the administrators of certain Commission programs and expanding that exemption to include the Toll-Free Numbering Administrator and the Reassigned Numbers Database Administrator; and (3) modifying the filing deadlines for presentations made shortly before the beginning of the Sunshine period and replies to those presentations as set forth in 47 CFR 1.1206(b)(2).

### Exemption to Ex Parte Rules for Government-to-Government Tribal Consultations

2. The Commission’s existing *ex parte* rules have no exemptions or provisions tailored to presentations to or from federally recognized Tribal Nations. Throughout this *Notice of Proposed Rulemaking*, “Tribes” or “Tribal Nations” mean those Nations, including Alaska Native Villages, that have been granted federal recognition. Thus, in a permit-but-disclose proceeding, written presentations and summaries of oral presentations between a Tribal representative and Commission staff must be filed as prescribed in the rules, unless an exemption applies. In a restricted proceeding, *ex parte* presentations are forbidden, and those presentations that are permitted must be filed or summarized in the record. In addition, the Sunshine period prohibitions apply fully to presentations to or from representatives of Tribal Nations.

3. Outside the Tribal context, the Commission has created exemptions from the *ex parte* rules for communications with particular parties where the circumstances require a greater degree of confidentiality than the rules would otherwise permit. Many of these exemptions are subject to conditions appropriate to the circumstances of each exemption. For example, presentations involving a military or foreign affairs function of the United States or classified security information are exempt from disclosure requirements and Sunshine restrictions without limitation. Presentations to or from an agency or branch of the Federal Government involving a matter of shared jurisdiction with the Commission are similarly exempt, but this exemption is subject to the condition that the Commission disclose any new factual information adduced from these presentations that it relies on its decision-making. In the case of presentations requested by the Commission or staff to clarify or adduce evidence or to resolve issues, any new information elicited must ordinarily be promptly disclosed, subject to certain exceptions. In yet another variant, if an exempt presentation is made that directly relates to an emergency in which the safety of life is endangered or substantial loss of property is threatened, the presentation or a summary must be promptly placed in the record and disclosed to other parties “as appropriate.”

4. The relationship between the United States Government and federally recognized Tribal Nations is unique.