Responses to Significant Comments on Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards for the San Antonio, Texas Area

Docket Number EPA-HQ-OAR-2017-0548
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List of Acronyms

CAA	Clean Air Act
CBSA	Core Based Statistical Areas
CFR	Code of Federal Regulations
CSA	Combined Statistical Area
DOD	Department of Defense
DFW	Dallas-Fort Worth, Texas
EAC	Early Action Compact
EPA	Environmental Protection Agency
FR	Federal Register
HYSPLIT	Hybrid Single Particle Lagrangian Integrated Trajectory Model
NAAQS	National Ambient Air Quality Standard
NOx	Oxides of Nitrogen
PPB	Parts Per Billion
PPM	Parts Per Million
TPY	Tons Per Year
TSD	Technical Support Document
U.S.	United States
VOC	Volatile Organic Compounds

1.0 Introduction

This document presents the responses of the Environmental Protection Agency (EPA) to the significant comments we received on our proposed designations for the eight counties in the San Antonio, Texas area.

2.0 Background

On October 1, 2015, the EPA promulgated revised primary and secondary ozone national ambient air quality standards (NAAQS) (80 FR 6592, October 26, 2015). In that action, the EPA strengthened both standards to a level of 0.070 parts per million (ppm), while retaining their indicators, averaging times, and forms. The EPA revised the ozone standards based on an integrated assessment of an extensive body of new scientific evidence, which substantially strengthens our knowledge regarding ozone-related health and welfare effects, the results of exposure and risk analyses, the advice of the Clean Air Scientific Advisory Committee, and consideration of public comments.

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

On November 6, 2017, the EPA issued final designations for the 2015 NAAQS for ozone for most areas in the United States (U.S.). Specifically, the Agency found that 2,646 counties, two tribal areas, and five territories met the standards and designated those areas "attainment/unclassifiable." This represented about 85 percent of the counties in the U.S. The EPA also designated three counties in the state of Washington as unclassifiable, because there was not enough data to calculate a 3-year ozone design value.

On December 22, 2017, for all remaining areas with the exception of the eight-county San Antonio area, the EPA responded to state and tribal recommendations by indicating the anticipated area designations for the 2015 ozone standards. These responses started a 120-day period for states and tribes to provide additional information before the EPA issued the final designations. The EPA also opened a 30-day comment period for the public to provide input on these designations before they were finalized.

On April 30, 2018, for all areas addressed in the December notifications, the EPA completed designations for the 2015 ozone NAAQS. Specifically, the EPA designated 51 areas in 22 states and the District of Columbia and including two tribal areas as nonattainment, one area as unclassifiable, and all remaining areas (with the exception of eight counties in the San Antonio area) as attainment/unclasifiable.

On March 19, 2018, the EPA responded to the State of Texas' recommendation for the eight-county San Antonio area by indicating that we intended to designate all or portions of Bexar County as, at best, unclassifiable and the remaining 7 counties in the San Antonio area as attainment/unclassifiable. This response started a 120-day period for the State of Texas to provide additional information before the EPA issued the final designation. The EPA opened a 30-day comment period for the public to provide input on the intended designations for the San Antonio area. Following are summaries of significant comments received on the 2015 ozone designation recommendations for the San Antonio area and the EPA's responses to those comments.

3.0 Responses to Significant Comments on the State and Tribal Designation Recommendations for the 2015 Ozone NAAQS for the San Antonio, Texas Area

The following sections address the state and public comments received by the EPA on the ozone designation recommendations for the 2015 Ozone NAAQS for the eight counties in the San Antonio, Texas Area. Comment summaries and responses are presented below. Interested persons can find the technical support document (TSD) in the electronic docket for this action (www.regulations.gov, docket number EPA-HQ-OAR-2017-0548) and at the EPA's Ozone Designations Web Page (www.epa.gov/ozone-designations).

Comment: Some commenters claimed the San Antonio area is receiving unique treatment from the EPA, resulting in the EPA proposing to delay a designation of the area, as well as proposing to designate Bexar County as unclassifiable. Another commenter stated that given the evidence of the interconnections between the counties in commuting patterns, economic integration, and emissions sources, all eight counties in the San Antonio Metropolitan Statistical Area should be designated as nonattainment, or the nonattainment area should be Bexar, Comal, and Guadalupe Counties, as designated under the 1997 ozone standard. One commenter urged the EPA to evaluate the impact of emissions from counties in the Eagle Ford Shale on air quality in Bexar County.

EPA Response: As for contributing counties, under section 107(d) of the Clean Air Act (CAA), the EPA is required to designate as nonattainment an area that is violating a new or revised NAAQS or that contributes to a nearby violation. EPA determines an ozone violation based on certified, quality assured monitoring data. To determine whether a nearby area is contributing to a violation, the EPA recommended that states conduct a technical analysis based on five factors listed in the designation guidance for the 2015 ozone NAAQS, including air quality, emissions and emissions-related data, meteorology, geography/topography, and jurisdictional boundaries. In evaluating whether to modify a state's designation recommendation, the EPA also considered those factors. The justification for including only Bexar County in the San Antonio nonattainment area is provided in EPA's TSD for the area.

The EPA disagrees that the San Antonio area is receiving unique treatment resulting in a delay in designation of the area. The delay in action versus other areas recently designated was established by an Order of the U.S. District Court that EPA finalize designations for the San Antonio area by July 17, 2018 (see Docket No. 57, Case No. 4:17-cv-06936-HSG (N.D. Cal., March 12, 2018)). Second, in making designations for the San Antonio area, we based our designation decisions on the CAA, guidance documents, information pertaining to the particular areas, and information supplied by the Texas Commission on Environmental Quality. Our designation decisions, including the seven additional counties in the Core Based Statistical Area (CBSA), and rationale and underlying data on which they are based, are fully set forth in the TSD. Third, as to unique treatment concerning an intended unclassifiable designation, our 120-day letter of March 19, 2018 did not convey certainty regarding the type of designation, but provided … described as "at best, Unclassifiable." Such language does not preclude a designation of nonattainment.

Furthermore, the EPA does not believe it is appropriate to use the unclassifiable designation for any areas that have design values greater than the level of the NAAQS. Under section 107(d)(1)(A)(iii) of the CAA, the "unclassifiable" designation is reserved for areas that cannot be classified based on available information as meeting or not meeting the NAAQS. Lastly, no plausible information was submitted that showed incomplete data or that resulted in discrediting the data at the violating monitors.

Please see our response to comment below regarding the inclusion of counties in the Eagle Ford Shale area.

Comment: Several commenters claimed that the 2015 ozone NAAQS is invalid and health studies on ozone are "iffy." One commenter asserted that because cities in the southern U.S. have more days where temperatures are at least 80 degrees, such cities should be allowed more ozone exceedances than those in the northern U.S.

EPA Response: The validity of the 2015 ozone NAAQS and related health studies are outside the scope of this designation action. In addition, the method for determining violations of the NAAQS is also outside the scope of this designation action.

Comment: One commenter stated that the San Antonio area "never ha[s] high ozone events in the middle of summer…" and ozone exceedances in the San Antonio area are due to low pressure systems in the Gulf or cool fronts changing local wind directions into the northeast and east. The commenter requested that the EPA consider high ozone events as weather driven phenomena.

EPA Response: The commenter does not explain why it is relevant whether high ozone events occur during the summer. However, we disagree that high ozone events do not occur during the summer in the San Antonio area. During the 2014 ozone season, several of the highest ozone exceedances occurred in July and August, and during the 2015 ozone season, most of the highest exceedances occurred in August.[1] The EPA agrees that weather does play a role in the formation of ozone. Ground level ozone is created by chemical reactions between oxides of nitrogen (NOx) and volatile organic compounds (VOC) in the presence of sunlight. These pollutants are emitted by cars, power plants, industrial boilers, chemical plants, and other sources, and such emissions are abundant in Bexar County.

Comment: One commenter claimed that all ultraviolet ozone monitors used to measure ozone are biased by interference from mercury vapor and sulfur dioxide and thus not accurate.

EPA Response: We are aware that ultraviolet-absorption method ozone analyzers are susceptible to potential interferences from compounds that sometimes occur in ambient air. However, most of the experimental testing for interferences (e.g., aromatic organic compounds and mercury) are at concentrations much higher than seen in typical urban ambient air. The EPA has always cautioned against siting analyzers in locations where interferences could be problematic. Carefully-sited and well-maintained ultraviolet ozone analyzers minimize the potential for interferences.

Comment: Other commenters recommended that the San Antonio area be designated as unclassifiable rather than nonattainment for the 2015 ozone NAAQS. The commenters claimed that because the EPA's 2017 Quality Assurance handbook allows for ozone monitors to deviate by 7 percent from a reference concentration and still be considered valid, the ozone design value for the San Antonio area can violate the 2015 ozone NAAQS by 7 percent and be designated as unclassifiable. A commenter also stated that the EPA has the authority to decide whether there is enough uncertainty as to whether the impact of systematic instrument error and exceptional events are contributing to a design value over 70 parts per billion (ppb) to warrant a designation of unclassifiable.

EPA Response: We disagree that EPA can change data submitted into AQS by plus or minus 7 percent. Once the data are validated and reported to the national database (AQS), the data are used with the knowledge that the uncertainty is acceptable and has been accounted for. The Data Quality Objective in the Quality Assurance handbook for acceptable ozone measurement uncertainty is defined for precision as an upper 90 percent confidence limit for the coefficient of variation of 7 percent and for bias as an upper

[1] See four highest 8-hour ozone concentrations in 2014 and 2015 at https://www.tceq.texas.gov/cgi-bin/compliance/monops/8hr_4highest.pl.

95 percent confidence limit for the absolute bias of 7 percent. The goal of the ambient air monitoring quality system in place at monitoring organizations is to provide data within these goals and take corrective action when they exceed them. Our assessment of existing ozone data demonstrates that the data are well within the measurement quality objectives for the program. The data quality for the vast majority of national ozone monitors (~99%) easily meets these goals. We also note that ozone measurement uncertainties can be both positive and negative. The specific methodology for calculating the ozone design values, including computational formulas and data completeness requirements, is described in the Code of Federal Regulations (CFR) at 40 CFR part 50, Appendix U. Under section (2)(a) of Appendix U, only data submitted to EPA's AQS database or otherwise available to EPA, shall be used in design value calculations. Neither §50.19 or Appendix U to Part 50 permit any "adjustments" for measurement uncertainty in the calculation of valid ozone design values.

The EPA disagrees that we can designate the San Antonio area as unclassifiable based on the occurrence of an exceptional event. The state has ample time to flag and otherwise communicate regarding data affected by an exceptional event and did not do so. We further note that if the state had flagged data as an exceptional event and EPA concurred, that data would have been excluded from the design value calculation and EPA would designate the area as attainment or nonattainment based on that design value; an exceptional event demonstration would not support a designation of unclassifiable.

Comment: A commenter asserted that if the preliminary 2016-2018 ozone design value for the San Antonio area is 70 ppb or less on June 30, 2018, or if the ozone monitoring data for July 1, 2016 - June 30, 2018, do not show a violation of the NAAQS, that EPA could designate the area as unclassifiable. The commenters stated that EPA should consider the benefits of making more extensive use of its authority under CAA section 110 to address interstate and intrastate transport and implementing the 2015 ozone NAAQS under "Subpart 1" rather than "Subpart 2" for areas outside of California.

EPA Response: The EPA disagrees that we can designate an area using data from July 1, 2016, through June 30, 2018. Section (1)(c) of Appendix U of 40 CFR part 50 defines "year" as a calendar year, as opposed to 12 consecutive months that may begin on the first of any month. Thus, using ozone monitoring data for the period July 1, 2016 – June 30, 2018, is not valid for calculating an area's design value.

Regarding the use of the "unclassifiable" designation, the EPA does not believe it is appropriate to use this designation for any areas that have design values greater than the level of the NAAQS. Under section 107(d)(1)(A)(iii) of the CAA, the "unclassifiable" designation is reserved for areas that cannot be classified based on available information as meeting or not meeting the NAAQS. The air quality monitoring data met the data completeness requirements and no information was submitted that called into question the monitoring data we have relied on for calculating the design value.

The EPA's authority to address interstate and intrastate transport and implementation of the 2015 ozone NAAQS are outside the scope of this designation action and would not affect the designation of the eight counties based on the most recent air quality monitoring data.

Comment: Numerous commenters supported the EPA's intended designations for Atascosa, Bandera, Comal, Guadalupe, Kendall, Medina, and Wilson Counties. The commenters urged the EPA to designate Bexar County as attainment/unclassifiable and claimed international emissions contribute over 20 ppb of ozone to monitors in Bexar County, based on photochemical modeling projections. The commenters were concerned that a nonattainment designation would create a multi-billion-dollar economic burden and have serious national security implications for the military and Department of Defense (DOD) operations in the

area.[2] Some commenters identified local measures in place that have reduced monitored ozone levels and state that the Bexar County monitors are projected to meet the 2015 ozone standard by 2020.

EPA Response: The EPA appreciates the commenters' views and emissions reductions measures undertaken; this work has and will continue to assist the area in reducing emissions that are precursors to ozone formation. The EPA encourages the continuation and development of these and future emissions reductions efforts.

Regardless of the photochemical modeling projections, the EPA cannot designate Bexar County as attainment/unclassifiable. Section 107(d)(1)(A) defines nonattainment 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. There are two violating monitors in Bexar County and, thus, Bexar County meets the definition of "nonattainment." Regarding international emissions, they are not a consideration in determining whether an area is violating the NAAQS. We note that section 179B of the CAA does allow for consideration of international emissions for some state implementation plan purposes for areas designated nonattainment. If requested, we will work with the state to determine whether that provision may be a basis for providing some relief for the area. Finally, we note that in addition to the 2014-2016 Hybrid Single Particle Lagrangian Integrated Trajectory Model (HYSPLIT) maps in the TSD for the San Antonio area, Figure 1 below shows that only one back trajectory passes through a small area along the eastern border of Mexico in southern Texas before flowing north through Texas to the violating monitors.

We are encouraged that certain commenters claim there are projections that the area will meet the 2015 ozone standard by 2020. Areas classified as Marginal for the 2015 ozone NAAQS, such as Bexar County, must attain the standard based on air quality monitoring data from 2018-2020. To the extent the commenter is suggesting that this attainment projection supports a designation of attainment or unclassifiable now, we disagree. Section 107(d) of the CAA is written in the present tense; designations are based on the current status of the area. The CAA then provides what states are required to do to achieve future attainment of the NAAQS.[3]

While we appreciate concerns about the potential economic implications of measures required based on a nonattainment designation, the CAA requires the EPA to designate as nonattainment any areas which are violating the NAAQS or which contribute to a violation of the NAAQS. We are not able to consider economic impacts in our decision to designate counties as nonattainment, as that is not a criterion for designations under section 107(d) of the CAA. Once the designations are made, the CAA outlines the requirements in the areas designated nonattainment. We note that Bexar County is being classified at the lowest classification – Marginal. Marginal areas are anticipated to attain the standard within 3 years. In addition, with the exception of nonattainment new source review and conformity, the area is not subject to any new required local control requirements. We are exploring ways in which the EPA could provide assistance to the state and stand willing to work with the state to help achieve healthy air quality in the area as quickly as feasible.

The commenter did not expound on its concerns regarding national security implications for the military and DOD operations in the area. The EPA has not received information regarding negative consequences on military and DOD operations in other existing nonattainment areas.

Comment: Several commenters stated that EPA must designate Bexar County as nonattainment. One commenter claimed that EPA's suggestion that Bexar County, or portions of the county, could be

[2] Commenters cited "Potential Cost of Nonattainment in the San Antonio Metropolitan Area" available at www.aacog.com/documentcenter/view/41742.

[3] The State's recommendation was based on 2014-2016 certified data of 73 ppb. The 2015-2017 data have been certified and submitted by the State and yield an ozone design value of 74 ppb.

classified as "at best, Unclassifiable" has no basis in the law. The commenter stated that EPA must designate the entire San Antonio-New Braunfels CBSA as nonattainment because all seven surrounding counties contribute to nonattainment in Bexar County, e.g., over one-third of the NOx and VOC emissions in the CBSA come from the seven counties surrounding Bexar County. The commenter claimed EPA used the CBSA boundaries as a starting point for application of the relevant factors in the Dallas/Fort Worth (DFW) area and included almost every county in the CBSA boundary in the nonattainment area, finding most counties to be an integral part of the core urban area or to be contributing area and mobile source NOx and VOC emissions to nearby violating monitors and, thus, it would be arbitrary for EPA to inconsistently apply these factors in the San Antonio area. The commenter stated the degree of urbanization in counties other than Bexar within the CBSA supported including the entire CBSA in the nonattainment designation, e.g., over 40% of workers in Wilson, Kendall, and Medina Counties commute to Bexar and over 30% of workers in Comal, Guadalupe, Atascosa, and Bandera Counties commute to Bexar, contributing significant mobile emissions that likely contribute to the air quality at monitors in Bexar County.

In addition, the commenter stated that the San Antonio nonattainment area boundary should include sources in the Eagle Ford Shale, where oil and gas operations contribute to nonattainment in the San Antonio Area. The commenter cited elevated hydrocarbon concentrations at a non-regulatory monitor in Karnes County as an indicator of oil and gas emissions from one of the counties in the Eagle Ford Shale. The commenter asserted that the EPA should expand monitoring networks and require ozone monitors near oil and gas development, including in the Eagle Ford Shale and counties surrounding Bexar County.

EPA Response: For the reasons documented in the TSD for the San Antonio area, the EPA is designating Bexar County as nonattainment for the 2015 ozone NAAQS.

EPA's analysis of all eight counties in the San Antonio-New Braunfels CBSA is provided in the final TSD. As provided in the TSD, EPA has concluded that seven counties should be designated attainment/unclassifiable because they are not violating the standard and do not contribute to the violations at the two monitors in Bexar County. Because the interaction of the factors affecting determination of contribution can vary greatly for each nonattainment area, EPA evaluates each nonattainment area on a case-by-case basis. We disagree that our evaluation of the five factors in the San Antonio area is inconsistent with our evaluation of those factors in other areas. For the DFW area, EPA's analysis was for the Combined Statistical Area (CSA), which is comprised of 20 counties,[4] and EPA designated nine as nonattainment. Comparing NOx and VOC emissions, only three of the counties in the DFW nonattainment area emit less than 10,000 tons per year (tpy) for either NOx and VOC: Johnson, Parker, and Kaufman. Johnson and Parker had violating monitors and Kaufman has over 2 billion VMT, VMT grew about 40 percent, and about 62 percent of workers living in Kaufman County commute to the counties with the violating monitors. None of the counties in the DFW nonattainment area have less than a billion VMT and the three counties with less than 2 billion VMT (Johnson, Parker, and Wise) had violating monitors or emit more than 10,000 tpy in each of NOx and VOC (Wise County). Finally, comparing population size and density, the counties designated as nonattainment in the DFW area with populations between 100,000 and 151,000 (similar in population to Comal and Guadalupe) are Ellis, Johnson, Parker, and Kaufman. Regarding the counties without violating monitors, Kaufman is described above, Ellis County has over 2.5 billion VMT, and emits over 10,000 tpy in NOx and nearly 58 percent of workers living in Ellis County commute to the DFW counties with violating monitors. Except for Wise County, none of the counties in the DFW nonattainment area have a population less than 100,000.

[4] Texas: Dallas/Fort Worth and Houston-Galveston-Brazoria; Intended Area Designations for the 2015 Ozone National Ambient Air Quality Standards (NAAQS); Technical Support Document (TSD) (Dec 22, 2017), (EPA TX TSD-I) *available at* https://www.epa.gov/sites/production/files/2017-12/documents/tx_120d_tsd_12_22_17final.pdf. Specifically, see page 5 of the EPA TX TSD-I, first paragraph in section 3.1.

Furthermore, we note that more than 63 percent of workers living in Rockwall County commute to the DFW counties with violating monitors, but Rockwall County was not designated as part of the nonattainment area.[5]

The EPA disagrees that it is necessary to designate sources in "the Eagle Ford Shale" as part of the nonattainment area. As an initial matter, the Eagle Ford Shale spans a 26-county area.[6] Of those counties, only two were part of the area of analysis for the San Antonio area – Atascosa and Wilson.[7] We note that all but seven of the Eagle Ford Shale counties do not adjoin the CBSA – i.e., are separated from the CBSA by at least one other county that is also not part of the CBSA. Thus, even if emissions from these counties do "contribute" to exceedances of the ozone standard at violating monitors in Bexar County, the EPA does not agree that they should be considered "nearby." Gonzales, Karnes, Live Oak, McMullen, La Salle, Frio, and Zavala Counties are adjacent to the CBSA and while there are no geographical or topographical features limiting air pollution transport, these seven counties are not adjacent to a county with a violating monitor nor are they adjacent to a county that we have determined contributes to the two violating monitors in Bexar County; thus, we do not consider Gonzales, Karnes, Live Oak, McMullen, La Salle, Frio, and Zavala Counties as part of our analysis for determining nearby contribution. Finally, we note that the southernmost ozone monitor in Bexar County, the Calaveras Lake monitor, is meeting the 2015 ozone standard – back trajectories that sweep through Karnes and other Eagle Ford Shale counties would impact this monitor before reaching the violating monitors in the northern half of Bexar County.

The comments regarding expanding monitoring networks and requiring ozone monitors near oil and gas development are outside the scope of this designation action. The requirements for ambient air quality surveillance are provided at 40 CFR Part 58, and 40 CFR Part 58.10 requires states to submit an Annual Monitoring Network Plan to the EPA by July 1 of each year. The Texas Annual Monitoring Network Plan is posted at https://www.tceq.texas.gov/airquality/monops/network_review.html.

Comment: Several commenters stated the EPA must designate Bexar County as nonattainment. One commenter suggested that, at a minimum, the EPA must designate Bexar, Atascosa, and Guadalupe Counties as nonattainment because Texas' own modeling demonstrates that sources in those counties are contributing significantly to nonattainment.

EPA Response: The EPA is designating Bexar County as nonattainment for the 2015 ozone NAAQS. Our designation decisions, including the seven additional counties in the CBSA, and the rationale and underlying data on which they are based, are fully set forth in the TSD.

Comment: The Governor of Texas, Governor Abbott, stated that EPA has discretion to designate Bexar County as attainment and should disregard the policy memorandum, prepared under the previous Administration, addressing designations.[8] The Governor asserted that EPA should consider that one regulatory monitor and numerous non-regulatory monitors all show that ozone levels in Bexar County satisfy the 2015 NAAQS. The Governor claimed that Bexar County would be well below the 2015 ozone NAAQS without foreign emissions and cites recent photochemical modeling showing "emissions from foreign sources likely contribute 10 to 24 ppb of ozone … in Bexar County." The Governor stated that legal uncertainty surrounding the 2015 ozone NAAQS should cause EPA to designate Bexar County as unclassifiable. The Governor also stated that a coal-fired power plant in Bexar County is planning to

[5] See the Final TSD for Texas in the docket and also posted at https://www.epa.gov/sites/production/files/2018-05/documents/tx_tsd_final.pdf.
[6] See https://eaglefordshale.com/counties/.
[7] Provided in EPA's February 2016 Designation Guidance, the EPA begins its analysis of the appropriate area to designate as nonattainment by looking at the areas within the CSA or CBSA. EPA has determined that the CSA or CBSA is a reasonable representation of which areas may be "nearby" for purposes of determining contribution.
[8] See *Area Designations for the 2015 Ozone National Ambient Air Quality Standards*, Memorandum of February 25, 2016, at https://www.epa.gov/sites/production/files/2016-02/documents/ozone-designations-guidance-2015.pdf.

cease operations by the end of 2018, so a nonattainment designation would be based on emissions data that would soon be out-of-date and thus, unreasonable. Finally, the Governor stated that EPA should defer the effective date of nonattainment, as was done under the Early Action Compact (EAC) program, to "provide local leaders with the regulatory flexibility necessary for efficient reduction of Bexar County's ozone levels."

EPA Response: The EPA disagrees that we have the discretion to designate Bexar County as attainment. Section 107(d)(1)(A) defines nonattainment 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." There are two violating monitors in Bexar County and thus Bexar County meets the definition of "nonattainment." Thus, Bexar County cannot meet the definition of an attainment area, which specifically excludes any area meeting the definition of nonattainment. Furthermore, an unclassifiable area is defined as any area that cannot be classified on the basis of available information as meeting or not meeting the national primary or secondary ambient air quality standard for the pollutant. The specific methodology for calculating the ozone design values is provided in 40 CFR part 50, Appendix U. Under section (4)(a) of Appendix U, which also specifies how to determine whether there is sufficient information for calculating a design value, two of the three regulatory ozone monitors in Bexar County have an ozone design value greater than 0.070 ppm, which clearly meets the CAA definition of nonattainment. The one regulatory monitor and five non-regulatory monitors with design values less than or equal to 0.070 ppm do not offset or supersede the violating regulatory monitors.

International emissions are not a consideration in determining whether an area is violating the NAAQS. We acknowledge that emissions sources in Mexico likely contribute to violations of the ozone NAAQS in Doña Ana County, New Mexico and we designated a portion of that county as nonattainment under the 2015 ozone NAAQS.[9] Regarding the impact of international emissions on San Antonio, EPA's evaluation of Texas' source apportionment modeling does not find that the impact of manmade emissions from Mexico are such as to impact EPA's decision making regarding the designation of the area. It appears that the letter incorrectly includes in its conclusions regarding international emissions a contribution labeled "Boundary conditions/International." By doing this, it conflates naturally occurring ozone from outside the modeling domain with manmade emissions from outside the modeling domain. Not only will this category include naturally occurring ozone but it will include ozone that is generated by portions of the U.S. that are outside the modeling domain and ozone that is generated from emissions within the U.S. and recirculated into the domain. From the same modeling results a more reasonable estimate of the impacts from manmade emissions from Mexico is on the order of less than 1 ppb (1-2%) of the ozone projected for 2023 in San Antonio.

The Governor's comment regarding the likely contribution from foreign sources was addressed in our 120-day TSD for the area.[10] We note that section 179B does allow for consideration of international emissions for some state implementation plan purposes for areas designated nonattainment. If requested, we will work with the state to determine whether that provision may be a basis for providing some relief for the area. Finally, we note that in addition to the 2014-2016 HYSPLIT maps in the TSD for the San Antonio, Figure 1 below shows that only one back trajectory passes through a small area along the eastern border of Mexico in southern Texas before flowing north through Texas to the violating monitors.

The EPA disagrees that legal uncertainty surrounding the 2015 ozone NAAQS should cause EPA to designate Bexar County as unclassifiable. As previously noted, Bexar County meets the definition of nonattainment and the fact that there are legal challenges to the 2015 ozone standard does not alter that fact. To the extent the commenter is suggesting that the legal challenge to the 2015 ozone NAAQS means

[9] See https://www.epa.gov/sites/production/files/2018-05/documents/nm_tsd_final.pdf.
[10] See https://www.epa.gov/sites/production/files/2018-03/documents/tx_sanantonio_120d_tsd_draft_3-2018_r6.pdf. Specifically, the "Overview of Texas Modeling Results" on page 21.

that under the definition of unclassifiable there is not "available information" indicating whether the area is "meeting or not meeting the national primary or secondary ambient air quality standard for the pollutant," we disagree. The information for determining whether an area is meeting or not meeting the NAAQS is set forth in 40 CFR part 50, Appendix U. The fact that there may be uncertainty about whether the NAAQS will survive litigation does not mean that the information for determining compliance with that NAAQS is unavailable.

We understand there are plans to retire a large emissions source in Bexar County.[11] However, the designation requirements in the CAA are written in the present tense (e.g., "does not meet or contributes to ambient air quality that does not meet") and the area is violating the NAAQS based on the most recent 3 years of monitored data. In addition, the regulations for the 2015 ozone NAAQS at 40 CFR part 50, Appendix U establish how EPA determines whether a violation has occurred - such determinations are based exclusively on monitoring data and do not allow for future modeled projections.

We disagree that the EPA should defer the effective date of nonattainment, as was done under the EAC program. At the time of designation for the 1997 ozone NAAQS, the EAC program was a well-established program that was agreed to by a wide-variety of stakeholders. Under the program, there was a written agreement between the state, local areas, and EPA, with milestones that the EAC areas were required to complete to continue eligibility for a deferral of the effective date of nonattainment designation (see 69 FR 23858, April 30, 2004). There is no such program in existence that would allow EPA to consider whether a deferral could be supported for the San Antonio area. We disagree that only a program like the EAC would provide local leaders with the regulatory flexibility necessary for efficient reduction of precursor emissions in Bexar County – voluntary emission reduction measures are not precluded by the CAA, are not limited to EAC areas, and have been on-going in the San Antonio area since the EAC ended in 2012. Furthermore, as noted previously, as a Marginal nonattainment area, Bexar County is only subject to nonattainment new source review and conformity requirements and is expected to attain the NAAQS within 3 years without additional mandated local controls.

4.0 Comments on Unrelated Programs

Comment: The EPA also received comments addressing energy issues in Europe; NOx emissions in China and India, and PM data in various parts of the world; climate change; the Federal budget and tax credits; a discussion defining the terms and merit of the Information Quality Act; and an excerpt from the Executive Order promoting energy independence and economic growth.

EPA Response: These comments do not concern ozone designations and thus are beyond the scope of the action and do not require a response.

[11] U.S. Energy Information Administration, Natural Gas Weekly Update (Mar. 14, 2018), https://www.eia.gov/naturalgas/weekly/archivenew_ngwu/2018/03_15/ ("Units 1 and 2 at the 840-MW JT Deely coal-fired plant are planned for retirement by the end of this year.").

Figure 1. Map of 24-hour HYSPLIT back trajectories for each exceedance day (i.e., daily maximum 8-hour values that exceed the 2015 ozone NAAQS) for the violating monitors in the San Antonio area (2014-2016 ozone data).