

**State and Public Comment Summary and Response Document on EPA's
Recommended Area Designations for the 2008 Lead Designation Recommendations
EPA-HQ-OAR-2009-0443**

November 16, 2010

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List of Acronyms

ACRONYM	DEFINITIONS
AQS	Air Quality System
CAA	Clean Air Act
CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
FR	Federal Register
FEM	Federal Equivalent Method
FRM	Federal Reference Method
GADM	Guideline on Air Quality Models
MDL	Method Detection Limit
NAAQS	National Ambient Air Quality Standards
OAQPS	Office of Air Quality Planning and Standards
PA DEP	Pennsylvania Department of Environment Protection
Pb	Lead
QA	Quality Assured
QC	Quality Control
SIP	State Implementation Plan
UTM	Universal Transverse Mercator
TSD	Technical Support Document
TSP	Total Suspended Particulate
TPY	Tons Per Year
$\mu\text{g}/\text{m}^3$	Micrograms Per Cubic Meter
TCEQ	Texas Commission on Environmental Quality
U.S.	United States

1 Introduction

On October 15, 2008, United States Environmental Protection Agency (U.S. EPA) substantially strengthened the National Ambient Air Quality Standard (NAAQS) for lead (Pb). The level of the 2008 Pb standards, set at 0.15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), is 10 times tighter than the previous standards. In conjunction with strengthening the Pb standards, EPA improved the existing Pb monitoring network by requiring monitors to be placed in areas with sources, such as industrial facilities, that emit one ton or more per year (tpy) of Pb, and at other sites. States were expected to deploy these monitors by January 1, 2010. The Clean Air Act (CAA) requires EPA to complete the process of designating areas as “nonattainment”, “attainment”, or “unclassifiable” within two years of establishing a new or revised NAAQS. EPA may extend the designation process by up to one year if the agency has insufficient information to make these designations. Because the expanded Pb monitoring network will provide additional data for consideration next year, EPA has decided to take the additional year, and complete the Pb designations in two rounds. In the first round, which is being finalized today, EPA is designating as “nonattainment” any area that is violating the 2008 Pb standards based on data from the pre-2010 monitoring network. For all other areas, EPA is extending the deadline for designations by up to one year so that data from the newly deployed monitors can be considered in making appropriate designation decisions. EPA will complete the second round of Pb designations by October 15, 2011.

EPA elected to seek public comment during the designation process in order to gather additional information for EPA to consider before making final designations. On July 8, 2010, EPA published a notice in the Federal Register (75 FR 39254) inviting public comment on its responses to states and tribes until August 16, 2010.

This document, together with the preamble to the final rule and the Technical Support Documents (TSDs) for the designations, presents the responses of EPA to the significant comments we received on our proposed designations. The responses presented in this document are intended to augment the responses to comments that appear in the preamble to the final rule and the TSD or to address comments not discussed in those documents.

2 Comments on Pb Initial Designations – Round 1

2.1 Comment on Region 3 Initial Designations – Round 1

Comment:

The use of borough and township boundaries for drawing nonattainment areas was arbitrarily defined. Instead, partial-county nonattainment areas should be defined using ambient air monitoring data and air dispersion modeling. Any nonattainment area should be defined based on map coordinates referenced to the Universal Transverse Mercator (UTM) system and municipal boundaries as done by Gavin L. Biebuyck, Principal Consultant for Liberty Environmental, Inc. In other areas of the country, EPA defined nonattainment areas using methods other than municipal boundaries. The air dispersion modeling done for this comment still accepted and used the Pennsylvania Department of Environmental Protection (PA DEP) principle of drawing a nonattainment area to include all areas above 50% of the 2008 Lead National Ambient Air Quality Standard (NAAQS).

This comment was submitted by:

Gavin L. Biebuyck, Principal Consultant for Liberty Environmental, Inc. in letters to the PA DEP dated October 21, 2009 and October 30, 2009;

County of Berks, Pennsylvania Office of the Commissioners in their letter to EPA dated August 12, 2010; and

Troy A. Greiss, Director of Environmental Health and Safety, East Penn Manufacturing Co., Inc. in a letter to EPA dated August 13, 2010.

EPA's Response:

In the 2008 Lead (Pb) NAAQS rule, eight factors were given that can be analyzed to support an area designation decision either larger or smaller than the presumptive county boundary. (See 73 FR 67033) These eight factors are: (1) emissions in areas potentially included versus excluded from the nonattainment area, (2) air quality in potentially included versus excluded areas, (3) population density and degree of urbanization, including commercial development in included versus excluded areas, (4) expected growth (including extent, pattern and rate of growth), (5) meteorology (weather/transport patterns), (6) geography/topography (mountain ranges or other air basin boundaries), (7) jurisdictional boundaries (e.g., counties, air districts, reservations, etc.) and (8) level of control of emission sources. As noted in the preamble, some states, such as Pennsylvania, made a judgment that it was important to follow jurisdictional boundaries (particularly where jurisdictional boundaries smaller than a county exist). In other cases, states chose to rely primarily on air dispersion modeling to determine the

recommended boundaries for nonattainment areas. In each case, EPA reviewed the state recommendations and made modifications where necessary, in EPA's judgment, to ensure that the nonattainment area satisfied the statutory requirements.

Comment:

The Lyons Area should be designated "Unclassifiable" instead of "Nonattainment" based on the representativeness of the ambient monitoring data for lead in the area and based on recent data that have been collected and reported for this area. Since 2009, the ambient lead levels in this area have been below the 2008 lead NAAQS. East Penn Manufacturing believes that the 2006 to 2008 data should not be considered for making nonattainment designation. This data does not represent the current lead levels in the Lyons area.

This comment was submitted by:

County of Berks, Pennsylvania Office of the Commissioners in their letter to EPA dated August 12, 2010; and

Troy A. Greiss, Director of Environmental Health and Safety, East Penn Manufacturing Co., Inc. in a letter to EPA dated August 13, 2010.

EPA's Response:

As discussed in the preamble and in the 2008 lead NAAQS rule, the form of the standard requires comparison of monitoring values from 36 3-month rolling averages (i.e., three years, plus two preceding months). In making these designations EPA considered data from 2007-2009. Section 107(d) requires EPA to designate areas as nonattainment if sufficient data exists to support such a designation. Accordingly, where sufficient data is available to support a nonattainment designation, EPA does not have discretion to postpone designations or to exclude certain years from consideration in considering whether monitored data results in a violation of the Pb NAAQS pursuant to 40 C.F.R. 50.16.

Comment:

The argument used by EPA to justify the inclusion of Kutztown does not appear to have technical merit. Small sources in Kutztown report smaller quantities of Pb emissions than those of lead sources located in adjacent municipalities and in adjacent counties. Clean data is recorded at Kutztown University.

This Comment was submitted by:

County of Berks, Pennsylvania Office of the Commissioners in their letter to EPA dated August 12, 2010.

EPA's Response:

As stated in EPA's technical support document for the Lyons Nonattainment area, "Based on its consideration of all the relevant, available information, as described above, EPA believes that the boundaries described herein encompass the entire area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the 2008 Pb NAAQS." EPA determined that the sources in Kutztown contribute to the ambient air quality in the Lyons Nonattainment Area because of their proximity to the monitor that recorded the violation and because the nonattainment area encompasses them. The data collection methods used at the Kutztown University monitors do not follow the quality assurance (QA) guidelines as stated in 40 CFR Part 58 Appendix A and cannot be used for comparison to the 2008 Pb NAAQS. The Pb monitor at Kutztown University is fully operated by Kutztown University under the direction of an environmental consulting firm hired by Berks County. Although the Pb monitor being used at Kutztown University is a PA DEP Federal Reference Method (FRM) monitor, PA DEP does not collect the filter and does not QA or quality control (QC) anywhere within the collection and analysis process. Lastly, PA DEP considers Kutztown University to be a partnership site, not a compliance site, because of the lack of QA/QC.

Comment:

The proposed lead nonattainment area boundary for the North Reading Nonattainment Area should be expanded to include a portion of the City of Reading, based on modeling done by Gavin L. Biebuyck the Berks County Commissioner's consultant.

This comment was submitted by:

County of Berks, Pennsylvania Office of the Commissioners in their letter to EPA dated August 12, 2010.

EPA's Response:

Berks County did not submit details regarding the modeling analysis that was the basis for its proposed North Reading Pb Nonattainment Area. EPA's proposed Pb nonattainment areas were based on documented modeling submitted by PA DEP as part of its Pb monitoring network design process. The figure in Attachment A of the August 12, 2010 comment letter submitted by the Berks County Commissioners depicting Berks County's proposed nonattainment area notes that actual emissions (including estimated fugitive emissions) and on-site meteorological data were used to construct the modeled Pb contours that were the basis for Berks County's proposed Pb nonattainment area. This figure, however, differs significantly from previous modeling done by the consultant, Gavin Biebuyck, for the North Reading Pb Nonattainment Area recommendation submitted on October 19, 2009 to PA DEP during its public comment period for its Pb designation recommendations. The October 19, 2009 letter submitted to PA DEP does provide some details regarding what model, sources and meteorological data were used to generate Figure 1's model contours. Since the contours are substantially different in the two figures, EPA can only conclude that different modeling parameters were used in both instances. EPA, therefore, can not assess the validity of the modeling used to delineate

Berks County's proposed Pb nonattainment areas. Berks County's proposed Pb nonattainment area appears to be drawn to exclude an industrial area in the northwest part of the City of Reading.

Comment:

Alsace Township should not be included in the North Reading Nonattainment Area because only a small part of the township has a modeled ambient Pb concentration in excess of half of the 2008 Pb NAAQS. The North Reading Nonattainment Area should be defined as a five-sided polygon.

This comment was submitted by:

Frederick Ganster, Director Environment, Health, and Safety for Exide Technologies in a letter to EPA dated August 12, 2010.

EPA's Response:

EPA accepts PA DEP's recommendation of including areas modeled in exceedance of 50% of the 2008 Pb NAAQS as a conservative approach to designating nonattainment areas, since minor emissions such as fugitives were not modeled.

Comment:

Monitors operated by PA DEP were located on property that is owned and access-controlled by East Penn Manufacturing. Thus, the Pb concentrations measured by the two monitors do not represent concentrations to which the general public would be exposed.

This comment was submitted by:

East Penn Manufacturing in a letter to PA DEP in October 2009 (Attachment A of East Penn Manufacturing letter dated August 13, 2010); and

Troy A. Greiss, Director of Environmental Health and Safety, East Penn Manufacturing Co., Inc. in a letter to EPA dated August 13, 2010.

EPA's Response:

The Lyons East Pb monitor (AQS Site ID 42-011-0717) was established on January 1, 1982 near East Penn Manufacturing on the farm property of H. Silfies. East Penn acquired nearby land over subsequent years for various purposes, eventually absorbing the Silfies farm in 1999, as approximated by PA DEP. The Pb monitor operated from this time on property owned by East Penn, until it was recently relocated on January 1, 2010. However, EPA considers the monitor to have been located in ambient air throughout this period. The definition of ambient air is found in 40 CFR Part 50.1 (e), which defines ambient air as *that portion of the atmosphere, external to buildings, to which the general public has access*. While the East Penn facility does have

partial fencing and a security checkpoint, vast portions of the property line are not fenced and have no physical barrier. The general public (including those who live in single family homes adjacent to the property line) has nothing to prevent them from entering the property. This conclusion is consistent with EPA's past practice in interpreting the term "ambient air." A compilation of EPA OAQPS ambient air precedent documentation can be found at <http://www.epa.gov/scram001/guidance/mch/ama4.txt>.

Comment:

The revised Pb standard has a new form and new analytical procedures that will result in much lower non-detection levels. East Penn Manufacturing understands that EPA encouraged the use of existing Pb concentration data to make area designations wherever possible, even though the existing Pb concentration data includes non-detect data at a 0.04 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) level rather than the revised non-detect level of $0.0075 \mu\text{g}/\text{m}^3$.

This comment was made by:

Troy A. Greiss, Director of Environmental Health and Safety, East Penn Manufacturing Co., Inc. in a letter to EPA dated August 13, 2010.

EPA's Response:

PA DEP currently uses the Federal Equivalent Method (FEM) for Pb analysis EQL-0592-086 entitled *Determination of Lead Concentration in Ambient Particulate Matter by Inductively Coupled Argon Plasma – Optical Emission Spectrometry (Commonwealth of Pennsylvania)*. This FEM was approved in the Federal Register on May 15, 1992 (57 FR 20823). A method detection limit method (MDL) of no lower than $0.04 \mu\text{g}/\text{m}^3$ has been demonstrated based on Pb data entered by PA DEP into the EPA Air Quality System (AQS) during the first quarter of 2010. The apparent MDL was corroborated by PA DEP Environmental Group Manager Kirit Dalal who provided specific analysis calculations. Compared to the revised $0.15 \mu\text{g}/\text{m}^3$ 2008 Pb NAAQS, the aforementioned MDL is relatively high. However, EPA Region 3 can only use data as reported by PA DEP. PA DEP is in the process of either revamping its Pb laboratory capabilities or utilizing an outside laboratory for future lead sample analysis. Either effort may improve future Pb analysis MDLs. However, until that time, EPA Region 3 will continue to use the data in AQS as submitted by PA DEP for Pb NAAQS comparison.

Comment:

East Penn Manufacturing had a collocated monitor that it ran from January 1, 2009 until August 31, 2009. This monitor showed attainment of the 2008 lead NAAQS, supporting an unclassifiable designation pending collection of additional lead monitoring data. The data collected by PA DEP was significantly higher than the data from the collocated East Penn Manufacturing monitor.

This comment was submitted by:

East Penn Manufacturing in a letter to PA DEP in October 2009 (Attachment A of East Penn Manufacturing letter dated August 13, 2010); and

Troy A. Greiss, Director of Environmental Health and Safety, East Penn Manufacturing Co., Inc. in a letter to EPA dated August 13, 2010.

EPA's Response:

Only data from monitors that follow the QA guidelines as stated in 40 CFR Part 58 Appendix A can be used for comparison to any NAAQS. Although East Penn Manufacturing has situated Pb monitors adjacent to PA DEP's, data from those monitors cannot be used for NAAQS comparison because there is no evidence they satisfy the QA requirements of Appendix A. PA DEP monitors undergo rigorous QA procedures including measurement uncertainties (precision, bias, accuracy, completeness, detectability) that cannot be verified for any monitors not meeting the requirements of 40 CFR Part 58 Appendix A. Furthermore, as discussed above, as well as in the preamble and in the 2008 Pb NAAQS rule, the form of the standard requires comparison of monitoring values from 36 3-month rolling averages (i.e., three years, plus two preceding months). EPA does not have discretion to postpone designations or to exclude certain years from consideration in considering whether monitored data results in a violation of the Pb NAAQS pursuant to 40 C.F.R. 50.16.

Comment:

The data relied upon to develop the design value for PA DEP Lyons East ambient Pb monitoring site were collected using sampling methodology and laboratory analytical techniques developed and implemented for the previous Pb NAAQS, and should be considered in context of the enhanced monitoring procedures that PA DEP intends to implement in the future.

This comment was submitted by:

East Penn Manufacturing in a letter to PA DEP in October 2009 (Attachment A of East Penn Manufacturing letter dated August 13, 2010).

EPA's Response:

The 2008 Pb NAAQS revision did not necessitate a change in Pb sampling methodologies. Any Total Suspended Particulate (TSP) sampler that meets the requirements of 40 CFR Part 50 Appendix B, *Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method)*, is acceptable for use as a FRM sampler for Pb-TSP.

Similarly, as noted in the preamble to the 2008 Pb NAAQS, it is not necessary to update or change Pb analytical techniques due to a change in the NAAQS. Reporting agencies throughout the country have continued to use the same Pb analytical techniques

with the institution of the new Pb NAAQS and have obtained MDLs at appropriate levels. MDLs are estimated in accordance with 40 CFR Part 136 Appendix B. It is incumbent on the reporting agency, not EPA, to ensure that MDLs are appropriate in comparison to the NAAQS.

All Pb data collected in the Lyons, PA area through December 31, 2009 at the discontinued monitoring sites (Lyons East, AQS ID 42-011-0717 and Lyons South, AQS ID 42-011-005) and beginning January 1, 2010 at the new monitoring sites (Lyons Park, AQS ID 42-011-0020 and Lyons Boro, AQS ID 42-011-0021) will be used for NAAQS compliance and attainment determination.

2.2 Comment on Region 5 Initial Designations – Round 1

Comment:

The Illinois Environmental Protection Agency (Illinois EPA) commented regarding EPA's intended modification to the designation boundaries recommended by Illinois which would designate an additional area referenced as Section 24 of Madison County as nonattainment. They urged EPA to reconsider the decision to include this additional area, stating that no additional lead emission sources are in the added area and that including this additional area would establish a relatively esoteric boundary.

The state alternatively suggested, in the event EPA disagreed with its recommendation, that EPA include both Granite City Township and Venice Township in Madison County, in their entirety, in the lead nonattainment area. Illinois EPA stated that coincident jurisdictional boundaries, such as townships, would be helpful in articulating the boundary of the nonattainment area. Granite City Township and Venice Township as the nonattainment area would still encompass the contributing emissions sources, as well as Section 24 of Madison County.

EPA's Response:

EPA has concluded that it is necessary and appropriate to include the area to the south of the US Steel facility in the final nonattainment area based on meteorological data and the under predicting tendencies of the modeling that was provided in the State's recommendation. This expansion would capture all likely impacts from the emissions from the facility on the surrounding area.

Having determined that the boundary needs to be extended beyond the city limits of Granite City in order to include all areas that do not meet the 2008 Pb NAAQS, EPA agrees that Illinois' alternative recommendation appropriately encompasses the entire area of nonattainment. Additionally, Illinois EPA's recommendation consists of well-delineated jurisdictional boundaries, which facilitates air quality planning for the area. Likewise, the revised recommendation clarifies and simplifies the boundaries of the final nonattainment area for interested parties. For these reasons, EPA is adopting Illinois' alternative recommendation as the basis for the nonattainment boundaries for this area.

2.3 Comment on Region 6 Initial Designations – Round 1

EPA Region 6 received comment letters from four sources: the Governor of Texas, the Texas Commission on Environmental Quality (TCEQ), the City of Frisco and Exide

Comment:

Governor Rick Perry of Texas provided comments on October 13, 2010 revising his October 14, 2009 recommendation for lead nonattainment boundary. In his letter, the Governor stated that he is revising his recommendation based on the facility's permit alteration and the new modeling performed by the TCEQ incorporating the facility's reduced permitted maximum allowable emission rates.

EPA's Response:

EPA appreciates comments from the Governor of Texas. After reviewing the facility's permit alteration and the reduced maximum allowable emission rates, and after reviewing TCEQ modeling approach and results, we agree with the Governor's revised recommendation for boundaries for the nonattainment area.

Comment:

TCEQ provided comments regarding one of the Pb monitors in Frisco. TCEQ said that at the time the monitoring data for monitor 480850009 was extracted from AQS the monitor was located on Exide company property behind a security fence and inaccessible to the public. The data from this monitor was incorrectly listed as ambient air data. Because the data from this monitor are non-ambient, TCEQ recommended that reference to this monitor be removed from EPA's Technical Support Document (TSD), and use only data from the other two monitors which represent ambient air and provide adequate data to support EPA's proposed nonattainment area.

EPA's Response:

EPA notes that the monitor in question is less than 5 feet from the chain link fence marking the property line at the monitor location. As such, its measurements are considered representative of ambient air across the fenceline.

As noted by TCEQ, there are two other monitors in the area that have recorded measurements above the NAAQS for lead, so this data is not necessary for the nonattainment designation. Furthermore, even if the data from 480850009 were not used for the purpose of determining attainment or nonattainment, the data from the monitor meets all of EPA's QA requirements and EPA believes it would still be appropriate to use the data in evaluating the proposed boundary of the nonattainment area and also in the future attainment plan. Therefore, we do not believe the reference to the data from monitor 480850009 should be removed from the TSD.

EPA notes this monitor has been listed as a SLAMS monitor and the data has been reported by the State as ambient data for the last three years. EPA understands that Texas now believes the data from this monitor should be designated as non-regulatory data. This issue will be addressed through future discussions with the State.

Comment:

Both Exide and the City of Frisco provided comments that raised concerns with the size of EPA's proposed nonattainment area. The boundary of the proposed nonattainment area was based on dispersion modeling performed by TCEQ. In its letter, Exide said that TCEQ performed the modeling using the maximum hourly emission rate possible for a 3-month period and drew the boundary of the non attainment area as a rectangle around the 0.15 $\mu\text{g}/\text{m}^3$ isopleth. Exide asserts that using the hourly potential emission represents a worst case scenario and is overly conservative, while using annual potential emissions to perform the modeling would have provided a more appropriate boundary for the nonattainment area for a 3-month average standard. In addition, Exide stated that there were no monitoring data available to support the inclusion of areas at the 0.15 $\mu\text{g}/\text{m}^3$ isopleth predicted by TCEQ modeling based on the maximum allowable hourly emission rate. Exide indicated that TCEQ's modeling is approximately 3 times higher at the monitor locations than the monitored values and modeling of actual annualized emission rates yields a value closer to the monitored value at one of the monitors. Exide provided modeling results performed using annual emission rates which indicates the area above the 0.15 standard is smaller than the proposed nonattainment area.

Exide also commented that they agreed with the factors used by EPA and TCEQ to define the non-attainment areas that deviate from the presumptive county boundary.

EPA's Response:

EPA appreciates comments from the City of Frisco and Exide. EPA's proposed boundary of the nonattainment area was based on the recommendation from the State of Texas. After promulgation of a new Standard, section 107 (d)(1)(A) of the CAA provides the opportunity for the Governor of each State is to provide recommendations for all areas in the State as to whether the areas should be designated attainment, nonattainment or unclassifiable. EPA must consider these recommendations and provide the governor at least 120 days notice if we intend to disagree with the State's

recommendation. EPA proposed to agree with the initial recommendation from Texas and as discussed above, the Governor provided revised recommendations in a letter dated October 13, 2010.

Because of monitored levels that were higher than the new standard, Texas concluded a portion of Collin County in the vicinity of the Exide facility should be designated nonattainment. To establish the boundary of this nonattainment area, Texas performed air quality modeling. Air quality modeling is an appropriate approach for establishing a boundary, as it can be used to estimate concentrations in areas without air quality monitors.

In accepting Texas' recommendation for the proposed boundary, EPA has reviewed TCEQ's modeling and agreed that the TCEQ approach of using the maximum allowable lead emissions in performing the modeling was a reasonable approach. This approach is generally consistent with 40 CFR Appendix W – Guideline on Air Quality Models (GAQM). While the facility has not had emissions as high as its permit allowables on an annual basis in recent years, it could operate at full capacity in the future. In fact, review of TCEQ's emission inventory data for 2000-2008 indicates that Exide's emissions have varied greatly, with the annual maximum reported emissions being 3-4 times larger than the minimum annual emissions reported. With this level of variation it seems the allowable emission rate are necessary to ensure that all potential emissions scenarios are covered. EPA also agrees that TCEQ's use of a maximum allowable hourly emission rate, rather than an annual rate, is reasonable, given that compliance with the standard is based on monitoring data collected on a once every 6 (1/6) day schedule, and these Pb monitoring data are then averaged to obtain monthly means. The monthly means from each 3 month period are averaged to obtain rolling 3 month average data for comparison with the NAAQS. Using an annual rate could potentially miss process variations that would be captured in the monthly or three month averages. As discussed below, TCEQ has lowered the emissions allowable under the source's permit since EPA proposed nonattainment boundaries, so the emissions now being modeled are lower.

With regard to Exide's concerns that the model predicts higher values than the monitors, EPA notes that while the model did over predict at some monitors, the model showed good correlation with the maximum monitored value. The maximum modeled value was $1.42 \mu\text{g}/\text{m}^3$ at a receptor located near the maximum monitored value of $1.26 \mu\text{g}/\text{m}^3$. EPA notes that there are difficulties in comparing modeling data with monitoring data. First, the modeling is based on 5 years of meteorological data from a time period earlier than the recent monitoring data referred to by the company. Using multiple years of weather data in the model is intended to mitigate year to year variations but wind patterns that impact modeled ambient concentrations can still vary somewhat. In addition, the large variation in emissions during the period further complicates the comparison of model and monitored results. In this case, the maximum modeled value is only 12.7% higher than the maximum monitored value from a different period. Further, the modeled maximum and monitored maximum are spatially identical. The modeling is well within EPA's expectation for the accuracy of models.

Exide's representatives met with the Region 6 staff on September 23, 2010 to discuss the proposed nonattainment boundary. Exide's plant manager stated that the facility was willing to alter their Title V permit and accept lower allowable emissions limit. On October 6, 2010 TCEQ issued Exide a revised permit that lowered the facility's maximum allowable hourly emission rate. The total hourly emission rates have been reduced significantly. TCEQ ran the air quality model with the revised emission rates. Modeling with the revised rates resulted in a smaller nonattainment area than previously recommended by the Governor. As a result the Governor of Texas revised his recommendation for the nonattainment area boundaries in a letter sent to EPA on October 13, 2010. We have reviewed the approach that Texas has taken in developing the revised recommended boundary for the nonattainment area, and the new modeling results and as discussed above, we agree with the revised Governor's recommendation.

Comment:

The City of Frisco provided comments opposing the proposed nonattainment area because it places private and public property within the proposed nonattainment area, which could have a negative impact on the use of that property. The City also disagrees with the use of potential to emit rates in the modeling and says that the nonattainment boundary should have been determined based on actual emission data rather than theoretical computer modeling.

EPA's Response:

EPA appreciates the City of Frisco comments. As described, the boundary is based on modeling performed by TCEQ and submitted by the Governor of Texas. The modeling is based on the new maximum allowable emission rates, which results in a smaller nonattainment area than originally proposed. EPA is revising the nonattainment area boundary based on the revised Governor's recommendation letter. EPA has reviewed the approach taken by TCEQ and believes it is reasonable. EPA's primary concern in making designations is to protect the public health and welfare from harmful pollutants. The CAA requires that the designation identify any area that does not meet (or that contributes to ambient air quality in a nearby areas that does not meet) the 2008 Pb NAAQS. Effects on property values can not be a consideration in establishing the boundaries of a nonattainment area.

2.4 Comment on Region 9 Initial Designations – Round 1

Comments:

EPA received comments from Asarco, LLC, and six Arizona State/local government offices in response to our July 8, 2010 proposal to designate the Hayden, Arizona area as nonattainment. The commenters challenged our proposal and asserted that the monitoring data we relied upon was not collected in accordance with applicable quality assurance and quality control ("QA/QC") requirements. All of the State/local

government offices who commented also asserted that the data EPA relied upon did not represent a risk to the public health, and that an unwarranted nonattainment designation could have significant adverse impacts on the local economies. One commenter also stated that the record does not support a nonattainment area extending beyond the immediate environs of the Hayden Smelter Complex, and asked that EPA, if it proceeds with the nonattainment designation, exclude the communities of Kearney and Dudleyville from the nonattainment area.

EPA's Response:

Based on our evaluation of the monitoring data issues raised in these comments, we have determined that we do not have sufficient information to promulgate a nonattainment designation for the Hayden area at this time. The July – September 2008 data that we obtained from the Hayden Maintenance Building monitor did not fully satisfy applicable QA/QC requirements including the collocated sampling requirement contained in 40 CFR part 58, Appendix A. Accordingly, the data that our proposal relied upon did not fully satisfy the requirements of 40 CFR part 50, Appendix R, for data used for comparisons with the Pb NAAQS. Because we do not currently have sufficient information to promulgate a nonattainment designation for the Hayden area, we are delaying our designation of the area for the Pb NAAQS until October 15, 2011.

New state-operated Pb-TSP monitors have since been installed in the Hayden area. EPA will evaluate data from these new monitors as part of our designation of the Hayden area in October 2011. If EPA intends to make a nonattainment designation for the area, EPA will also reevaluate the appropriate nonattainment area boundaries at that time. Finally, before promulgating these designations for the Pb NAAQS, EPA will notify the State and the public and provide an opportunity to comment.

As to the commenters' assertions about public health and economic impacts, these are not factors that EPA considers as part of the designation process under CAA section 107(d)(1). Following promulgation of a NAAQS under section 109 of the Act, EPA is obligated under section 107(d)(1) to designate as nonattainment "any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet)" the NAAQS for that pollutant. Thus, the appropriate inquiry for a designation under section 107(d)(1) is whether the area violates the NAAQS or contributes to violations of the NAAQS in a nearby area. EPA does not at this point revisit the extensive evaluation of public health risks that it conducted in establishing the NAAQS under CAA sections 108 and 109 (*see, e.g.*, preamble to Pb NAAQS final rule at 73 FR 66964, November 12, 2008), as section 107(d)(1) provides no such authority. Likewise, section 107(d)(1) does not authorize EPA to consider economic impacts during the designation process, as economic impacts are not relevant to the question whether the area violates the NAAQS or contributes to violations in a nearby area. In both nonattainment and attainment (or unclassifiable) areas, however, the CAA generally allows EPA and States to consider economic impacts in determining what pollution controls should be implemented.