



38th Annual Texas Environmental Superconference

- Terry Salem, Special Counsel, Office of Legal Services

* Opinions expressed in this presentation are my own and not those of the TCEQ.

Fun Fact

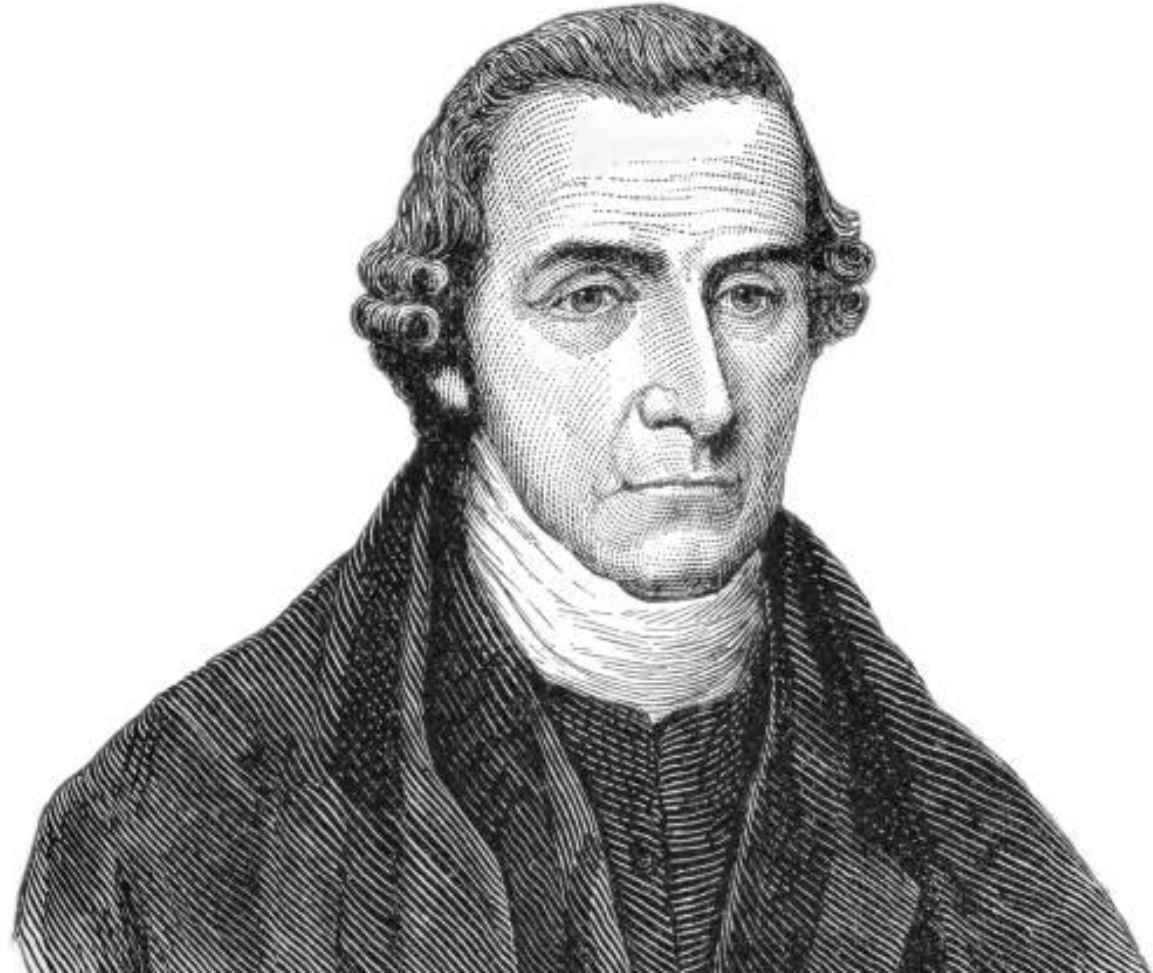


“Give Me Liberty or Give Me Death!”

Quote attributed to Patrick Henry, in closing for a speech to Virginia Delegates at the Second Virginia Convention at St. John's Church, Richmond, Virginia, 1775, urging them to prepare for armed resistance to the British.

Likely the words of William Wirt, who reconstructed the text of the speech years later – in 1887.

Image from Getty Images, credit: mikroman6



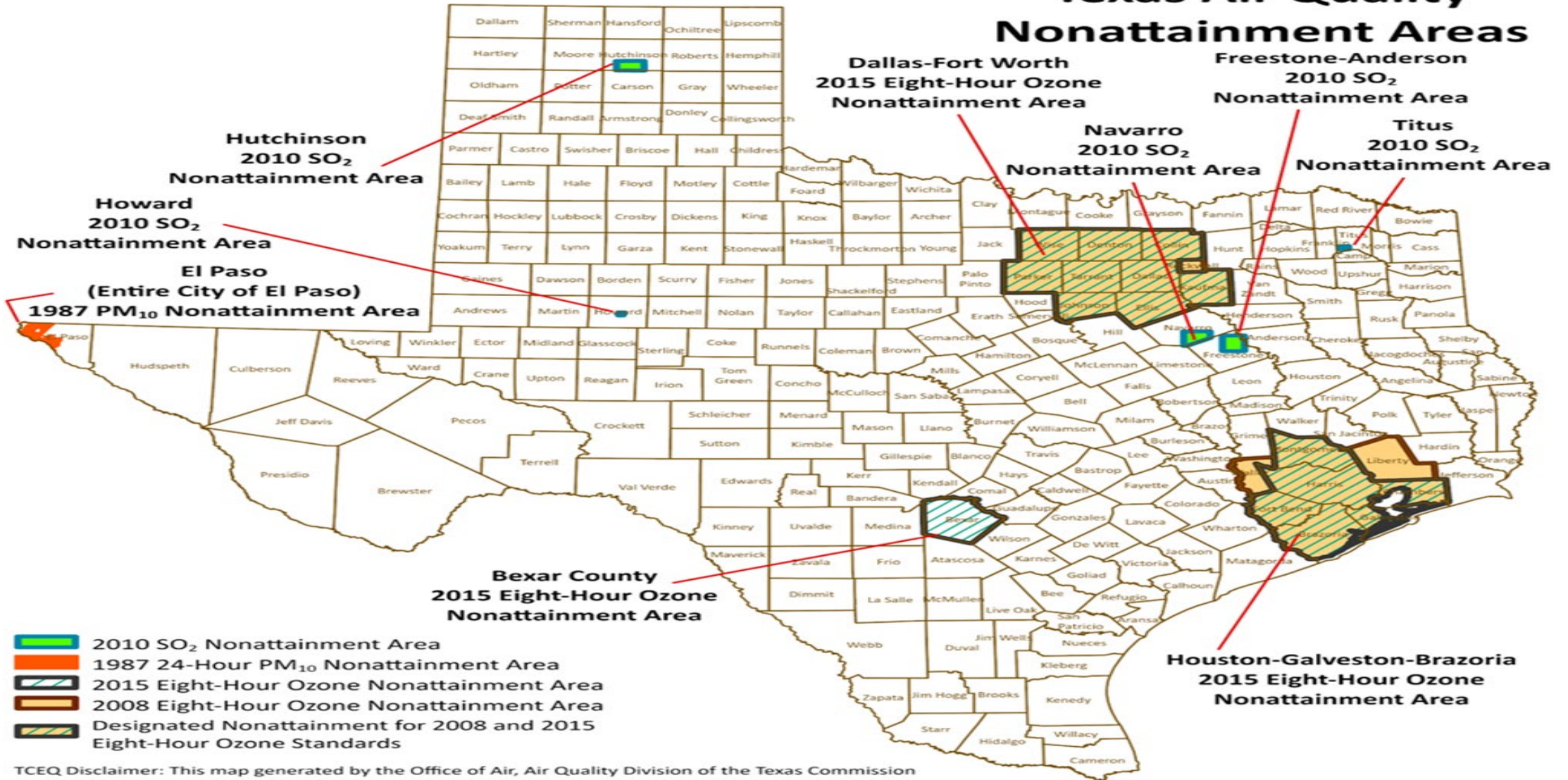
Hot Topics for TCEQ

- Air Quality
 - National Ambient Air Quality Standards (NAAQS):
 - Ozone;
 - Sulfur Dioxide (SO₂); and
 - Particulate Matter (PM_{2.5}).
- Air Permitting
 - Federal
 - State

Hot Topics for TCEQ

Air Quality

Texas Air Quality Nonattainment Areas

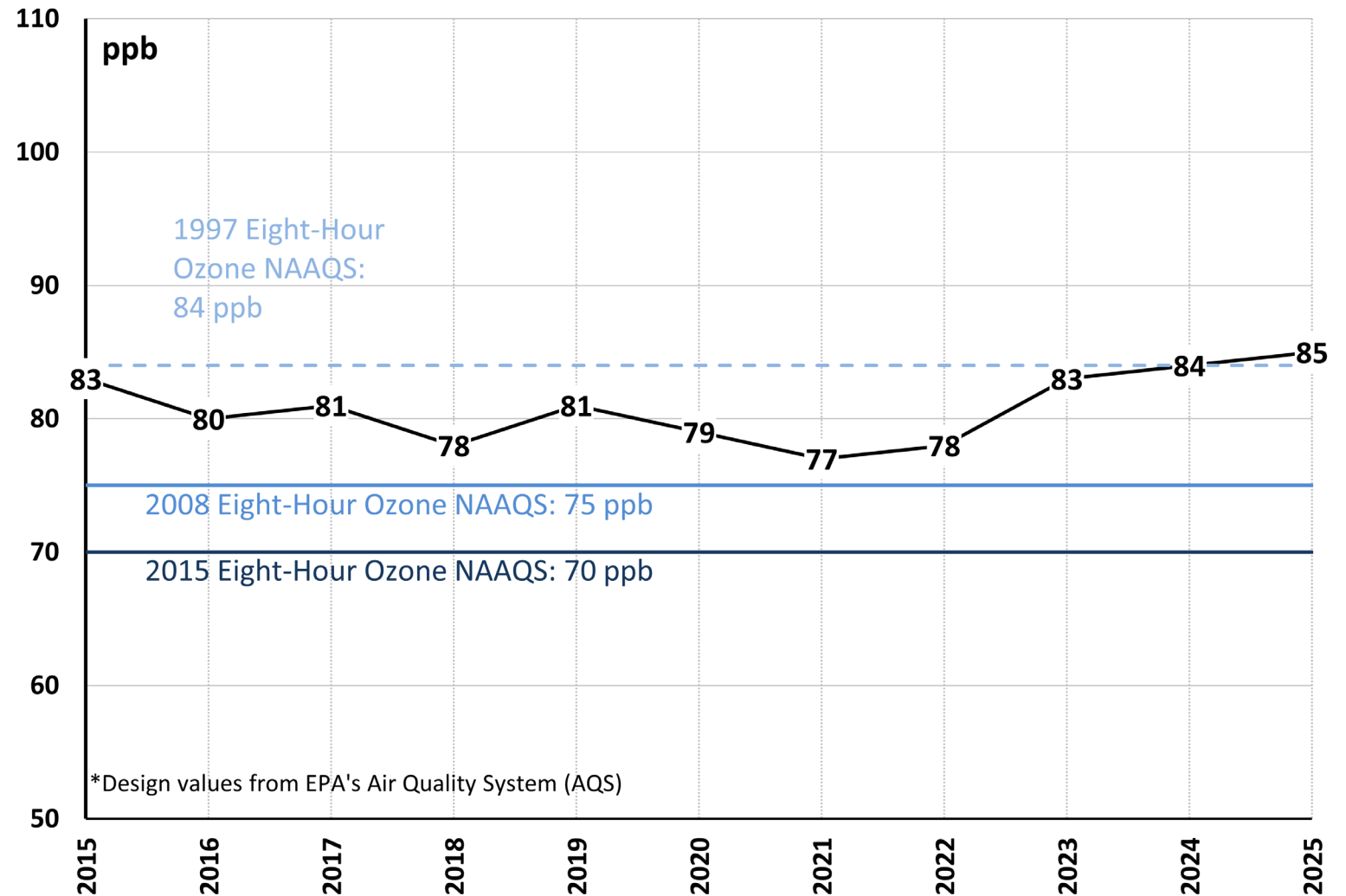


TCEQ Disclaimer: This map generated by the Office of Air, Air Quality Division of the Texas Commission on Environmental Quality, is for informational purposes, and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For information concerning this map, contact the Air Quality Division at (512) 239-3948.

Made by: Laramie Mahan October 10, 2025

Eight-Hour Ozone Design Values in Texas

- Eight-hour ozone design values are the fourth-highest daily maximum eight-hour average ozone concentration, averaged over three years.
- Eight-hour ozone design values in Texas increased 2% from 2015 through 2025.



NAAQS: Ozone

Nonattainment areas:

- 2008 8-hour Ozone Standard
 - Houston-Galveston-Brazoria (HGB)
 - Dallas-Fort Worth (DFW)
- 2015 8-hour Ozone Standard
 - HGB
 - DFW
 - Bexar County
- 2015 Ozone Transport Disapproval challenge: *Texas v. EPA*, 170 F.4th 328 (5th Cir. 2026)
- Ozone Reclassification State Implementation Rule Proposal
- Federal Clean Air Act, §179B Submissions

NAAQS: SO₂

- Nonattainment Areas
 - Round 2 Supplement (2016):
 - Freestone/Anderson (portions)
 - Titus (portion)
 - Rusk/Panola
 - Round 4 (2021):
 - Howard
 - Hutchinson
 - Navarro

Rusk Panola SO₂ Designation: *Texas v. EPA*, 137 F.4th 353 (5th Cir. 2025)

NAAQS: SO₂

- Secondary NAAQS
 - Revised standard published 12/27/2024, 89 Fed. Reg. 105692, effective 1/27/2025
 - Designations
 - Governor's letter 12/10/2025 designated all areas with monitors "attainment", those without monitors "attainment/unclassifiable"
 - EPA 120-day letters no later than 8/11/2026
 - Final designations no later than 12/11/2026
 - Infrastructure and Transport SIPs due 12/11/2027

NAAQS: PM_{2.5}

Commonwealth of Kentucky, et al. v. EPA, 179 F.4th 963, D.C. Cir. 2026).

- State and Industry petitioners challenged EPA's rule revising the NAAQS for fine particulate matter.
- After the case was fully briefed and argued, the challenge was abated to allow the Trump administration to review the rule – ultimately EPA filed a motion to vacate the rule which was denied; petitions for review also denied.

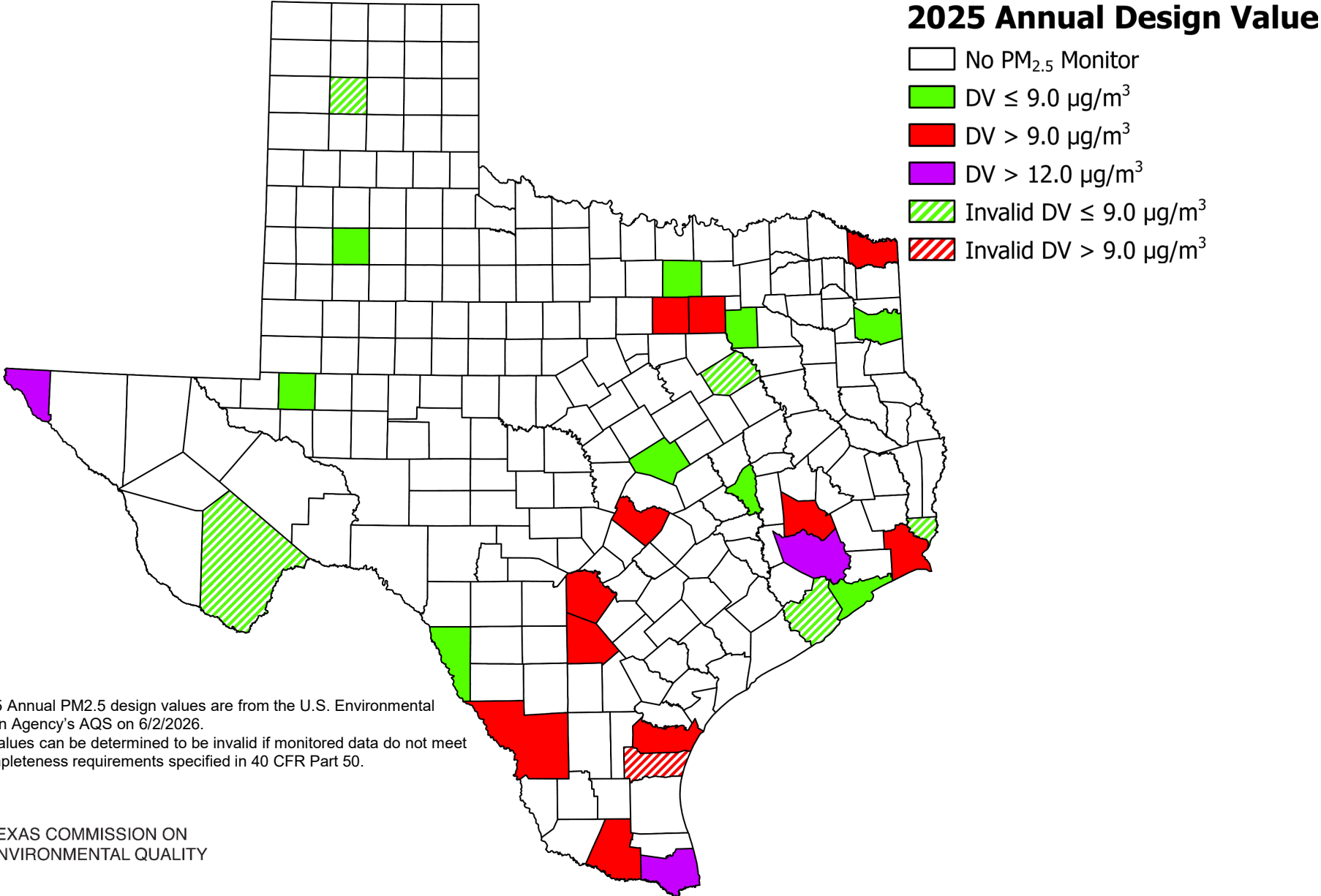
Alliance of Nurses for Healthy Environments et al v. Zeldin, 2026 WL 2078145 (N.D. Cal. 2026).

- Mandatory nondiscretionary duty suit filed to require an enforceable schedule for designations for the PM_{2.5} NAAQS.
- July 17, 2026, ruling in favor of environmental groups, requiring EPA to complete PM_{2.5} designations by February 6, 2027.

NAAQS: PM_{2.5}

- What's Next?
 - Further Appeals?
- EPA Designations
 - 120-day letters
 - State responses
 - Final designations
 - State Plans
 - Infrastructure
 - Transport
 - Nonattainment Plans

Texas 2025 Annual PM_{2.5} Design Values (DV)



County	Annual DV (µg/m ³)
Cameron	15.3
El Paso	14.6
Harris	12.8
Montgomery	11.0
Hidalgo	10.5
Kleberg	10.2*
Nueces	10.1
Dallas	9.9
Jefferson	9.7
Webb	9.7
Tarrant	9.6
Travis	9.6
Bowie	9.5
Bexar	9.1
Atascosa	9.1
Harrison	8.8
Orange	8.8*
Maverick	8.5
Navarro	8.4*
Brazoria	8.1*
Brazos	8.0
Galveston	8.0
Denton	7.9
Kaufman	7.7
Ector	7.5
Bell	7.4
Brewster	6.3*
Potter	5.7*
Lubbock	5.0

- Notes:
- The 2025 Annual PM_{2.5} design values are from the U.S. Environmental Protection Agency's AQS on 6/2/2026.
 - Design values can be determined to be invalid if monitored data do not meet data completeness requirements specified in 40 CFR Part 50.

*Design value was listed as invalid in U.S. Environmental Protection Agency's AQS data retrieved on 6/2/2026.

Hot Topics for TCEQ

Air Permitting

Air Permitting: Federal

Federal rulemaking – the churn continues.

- **Begin Actual Construction**
 - Proposal published May 13, 2026, to revise the definition of “begin actual construction” to address those activities that may be undertaken prior to obtaining an NSR permit.
- **Minor New Source Review (MNSR) Public Participation Requirements**
 - Proposal published July 7, 2026, to remove public participation minimum requirements for MNSR programs; however, if states do NOT provide for minimum public participation requirements, MNSR decisions will no longer be shielded from additional review during the Title V permitting process.
- **Rescission of Title V Emergency Affirmative Defense Rule**
 - Final rule published June 1, 2026 (91 Fed. Reg. 32357), rescinding the 2023 final rule “Removal of Title V Emergency Affirmative Defense Provisions from State Operating Permit Programs and Federal Operating Permit Programs”, 88 Fed. Reg. 47029, July 21, 2023, which was reversed on appeal, see *SSM Litigation Group v. EPA*, 150 F.4th 593(D.C. Cir. 2025).
 - Reinstates the emergency affirmative defense provisions found in 40 CFR §§70.6(g) and 71.6(g).

Air Permitting: State Issues

- State Rulemaking
- Emission Banking and Trading
 - Updates from 2023 Quad Review and 2026 TREO Review
- Maximum Achievable Control Technology (MACT) / Generally Available Control Technology (GACT) Update
 - Update to include federal rule revisions for consistency

Questions?

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