

Implementation of the Revoked 1997 8-Hour Ozone National Ambient Air Quality Standards; Updating Federal Regulations to Show Areas that Attained by the Attainment Date

FACT SHEET

ACTION

- On August 31, 2020, the U.S. Environmental Protection Agency (EPA) issued a direct final rule to update regulations that apply to the approval and promulgation of implementation plans (40 CFR part 52). This codifies the Agency's findings that nine areas attained the revoked 1997 ozone National Ambient Air Quality Standards (NAAQS) by their respective attainment dates:
 1. Buffalo-Niagara Falls, New York;
 2. Jamestown, New York;
 3. Jefferson County, New York;
 4. Poughkeepsie, New York;
 5. Shoreline Sheboygan County, Wisconsin;
 6. Inland Sheboygan County, Wisconsin;
 7. Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado;
 8. San Francisco Bay Area, California; and,
 9. Ventura County, California.
- Publishing these determinations confirms for the public and state air agencies that these areas attained the standards by the applicable attainment dates and are therefore not subject to reclassification and other anti-backsliding consequences for failure to timely attain the standards. EPA had previously informed the affected states' air agencies of these determinations, by way of letter, in February 2019.
- Because this action does not impose any regulatory requirements, EPA is issuing a direct final rule with a parallel proposal. If EPA receives relevant adverse comment on this action, the Agency will withdraw the direct final rule and act on the proposal.

BACKGROUND

- On July 18, 1997, EPA established the NAAQS for 8-hour average ozone concentrations at a level of 0.08 parts per million (ppm) for both the primary and secondary standards. Subsequently, EPA designated areas around the country as either attaining ("attainment") or not attaining ("nonattainment").
- On March 27, 2008, EPA revised the 8-hour ozone NAAQS to a more protective level of 0.075 ppm for both the primary and secondary standards. In April 2015, EPA issued implementing regulations for the revised NAAQS (2008 ozone SIP Requirements Rule). In that rule, the EPA revoked the 1997 ozone NAAQS and established requirements to ensure that progress toward clean air would not "backslide." EPA also stated that it would no longer

make determinations of attainment by the attainment date except to trigger relevant anti-backsliding obligations, as the designations and classifications for 1997 ozone NAAQS areas were revoked along with the standard.

- In *South Coast Air Quality Management District v. EPA* (882 F.3d 1138 (D.C. Cir. 2018)) (known as the *South Coast II* decision), the U.S. Court of Appeals for the District of Columbia Circuit vacated certain portions of the 2008 ozone SIP Requirements Rule, and held that EPA must reclassify areas that failed to attain the revoked 1997 ozone NAAQS by the area's applicable attainment date.
- In February 2019, four EPA Regional Offices issued letters to four states identifying nine areas designated nonattainment for the 1997 ozone NAAQS prior to the revocation to clarify that those areas had attained the standards by the applicable attainment dates. The findings were based on certified quality-assured air quality monitoring data from the 3 calendar years preceding the respective attainment dates.
- This direct final rule updates the regulations at 40 CFR part 52 to reflect these earlier findings.

FOR MORE INFORMATION

- To download this action from the EPA's website, go to <https://www.epa.gov/ozone-pollution/1997-ozone-national-ambient-air-quality-standards-naaqs-nonattainment-actions>.
- This action and other associated information are also available electronically at <http://www.regulations.gov>.
- The official version of the proposal and the direct final rule will be published in the *Federal Register* on the same day. EPA will keep the parallel proposal open for comment for XX days after publication.
- You may send comments on the proposal, identified by Docket ID No. EPA-HQ-OAR-2019-0611, by any of the following methods:
 - Federal eRulemaking Portal: <https://www.regulations.gov> (our preferred method). Follow the online instructions for submitting comments. Comments received may be posted without change to this website, including any personal information provided.
 - Email to a-an-r-docket@epa.gov.
- Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff continues to provide remote customer service via email, phone, and webform. Hand deliveries and couriers may be received by scheduled appointment only. To avoid any potential delays, we encourage the public to submit comments via [regulations.gov](http://www.regulations.gov) or email.
- For further information about this final action, contact Ms. Virginia Raps in the EPA's Office of Air Quality Planning and Standards, at (919) 541-4383 or by email at raps.virginia@epa.gov.