

## FACT SHEET

### Revised Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards

#### SUMMARY OF ACTION

- On May 24, 2021, the U.S. Environmental Protection Agency (EPA) is taking action on its review of certain area designations for the 2015 ozone National Ambient Air Quality Standards (NAAQS). This review focused on 16 counties associated with nine nonattainment areas located in seven states – Colorado, Indiana, Illinois, Michigan, Missouri, New Mexico (the county under review is in Texas), and Wisconsin.
- On July 10, 2020, the D.C. Circuit Court remanded, but did not vacate, EPA’s original designation for these counties.
- In re-evaluating the designations for the remanded counties, EPA considered the specific facts and circumstances of the areas using the existing record for the April 2018 designations action.
- In response to the D.C. Circuit Court’s remand, EPA is taking final action to revise the boundaries for six nonattainment areas in four states (Illinois, Indiana, Missouri and Wisconsin) and reaffirming the April 30, 2018, designation associated with Ottawa County, Michigan.
- In the case of the Doña Ana County, NM and Denver Metro/North Front Range, CO nonattainment areas, upon further review, EPA intends to revise its initial designation. Because EPA’s intended designations for the associated remanded counties of El Paso, TX and Weld, CO, respectively, disagree with the states’ area recommendations, EPA is sending letters to each state opening a 120-day period for the states to provide additional information based on the existing record. The Agency will notify both New Mexico and Texas of this planned addition. EPA is also opening a 30-day period for the public to comment.
- The table below summarizes EPA’s decisions regarding the remanded counties and the associated nonattainment area.

#### Final Actions on Remanded Counties

Nonattainment Area Name	Remanded County	April 2018 Designation	Remand Designation
Chicago, IL-IN-WI	Kenosha, WI	Partial county nonattainment	Expanded partial county nonattainment
	McHenry, IL	Full county attainment	Full county nonattainment
	Porter, IN	Full county attainment	Partial county nonattainment
Northern Milwaukee/Ozaukee Shoreline, WI	Milwaukee, WI	Partial county nonattainment	Full county nonattainment
	Ozaukee, WI	Partial county nonattainment	Full county nonattainment
	Racine, WI	Full county attainment	Partial county nonattainment
	Waukesha, WI	Full county attainment	Partial county nonattainment

	Washington, WI	Full county attainment	Partial county nonattainment
Sheboygan, WI	Sheboygan, WI	Partial county nonattainment	Expanded partial county nonattainment
Manitowoc, WI	Manitowoc, WI	Partial county nonattainment	Expanded partial county nonattainment
Door, WI	Door, WI	Partial county nonattainment	Expanded partial county nonattainment
Allegan, MI	Ottawa, MI	Full county attainment	Full county attainment (no change)
St. Louis, MO-IL	Monroe, IL	Full county attainment	Full county nonattainment
	Jefferson, MO	Full county attainment	Full county nonattainment

### Intended Actions on Remanded Counties

Nonattainment Area Name	Remanded County	April 2018 Designation	Intended Designation
Dona Ana County, NM	El Paso, TX	Full county attainment	Full county nonattainment (120-day letter sent to Texas and New Mexico)
Denver Metro/ N. Front Range, CO	Weld, CO	Partial county nonattainment	Full county nonattainment (120-day letter sent to Colorado)

### BACKGROUND

- On October 1, 2015, EPA revised both the primary and secondary ozone NAAQS.
- Whenever EPA establishes a new NAAQS, the Clean Air Act (CAA) requires EPA to designate all areas of the country as to whether they are meeting or not meeting the NAAQS.
- EPA designated areas for the 2015 ozone NAAQS in 3 rounds, resulting in 52 nonattainment areas.
  - November 6, 2017: EPA designated 2,646 counties, 2 separate tribal areas and 5 territories as Attainment/Unclassifiable. We also designated 1 Unclassifiable area.
  - April 30, 2018: EPA designated 51 Nonattainment areas, 1 Unclassifiable area, and all remaining areas as Attainment/Unclassifiable, except for the 8 counties in the San Antonio, TX area.
  - July 17, 2018: EPA designated 1 county in the San Antonio area as Nonattainment and the other 7 counties as Attainment/Unclassifiable.
- Multiple petitioners (*i.e.*, several environmental and public health advocacy groups, 3 local government agencies, and the state of Illinois) filed six petitions for review challenging the EPA's 2015 ozone NAAQS designations promulgated on April 30, 2018. The DC Circuit Court consolidated the petitions into a single case, *Clean Wisconsin v. EPA*.
- Collectively, the petitioners challenged aspects of EPA's decisions associated with 9 nonattainment areas, involving 17 counties, including nearby counties that EPA had designated as attainment.
- Petitioners primarily argued that EPA improperly designated counties (in whole or part) as attainment that should have been designated as nonattainment based on contributions to nearby counties with violating monitors.

- In its brief, EPA requested voluntary remand without vacatur of the final designation decisions for 10 counties associated with 4 nonattainment areas to further review those designations.
- On July 10, 2020, the District of Columbia Circuit Court issued its decision on the April 30, 2018, designations.
- The DC Circuit granted EPA's request for voluntary remand of ten counties.
- The Court also granted challengers' petitions for review for six additional counties and remanded these counties to EPA.
- The Court denied challengers' petition for review for Lake County (part of the Chicago, IL-IN-WI nonattainment area); that partial county nonattainment designation remains in place.
- The Court did not vacate any of the designations but required EPA to "issue revised designations as expeditiously as practicable," keeping in mind Congress's purpose of ensuring timely area designations.

#### **FOR MORE INFORMATION**

- To download a copy of the final decision, go to EPA's Web site at: <https://www.epa.gov/ozone-designations>.
- Today's decision and other background information are also available either electronically at <http://www.regulations.gov>, EPA's electronic public docket and comment system.
- For further technical information about the rule, please contact Carla Oldham, with EPA's Office of Air Quality Planning and Standards, at (919) 541-3347 or [oldham.carla@epa.gov](mailto:oldham.carla@epa.gov).