

WASHINGTON—2010 SULFUR DIOXIDE NAAQS
[Primary]

Designated area ¹	Designation	
	Date ²	Type
Whatcom County (part) That portion of Whatcom County encompassed by the rectangle with the vertices using Universal Traverse Mercator (UTM) coordinates in UTM zone 10 with datum NAD83 as follows: (1) Vertices—UTM Easting (m) 519671, UTM Northing (m) 5412272; (2) Vertices—UTM Easting (m) 524091, UTM Northing (m) 5412261; (3) Vertices—UTM Easting (m) 519671, UTM Northing (m) 5409010; (1) Vertices—UTM Easting (m) 524111, UTM Northing (m) 5409044.	January 16, 2025	Attainment.

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
² This date is April 9, 2018, unless otherwise noted.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R05–OAR–2024–0546; FRL–12410–01–R5]

Findings of Failure To Attain and Reclassification of Areas in Illinois, Indiana, Michigan, Ohio, and Wisconsin as Serious for the 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final determination.

SUMMARY: The Environmental Protection Agency (EPA) is determining that the Allegan County, MI; Berrien County, MI; Chicago, IL-IN-WI; Cleveland, OH; Milwaukee, WI; Muskegon County, MI; Sheboygan County, WI; and Illinois portion of the St. Louis, MO-IL areas failed to attain the 2015 ozone National Ambient Air Quality Standards (NAAQS) by the applicable attainment date. The effect of failing to attain by the applicable attainment date is that the areas will be reclassified by operation of law to “Serious” nonattainment for the 2015 ozone NAAQS on January 16, 2025, the effective date of this final rule. This action fulfills EPA’s obligation under the Clean Air Act (CAA) to determine whether ozone nonattainment areas attained the NAAQS by the attainment date and to publish a document in the **Federal Register** identifying each area that is determined as having failed to attain and identifying the reclassification.

DATES: This final rule is effective on January 16, 2025.
ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2024–0546. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through <https://www.regulations.gov> or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Eric Svingen, Environmental Engineer, at (312) 353–4489 before visiting the Region 5 office.
FOR FURTHER INFORMATION CONTACT: Eric Svingen, Air and Radiation Division (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, svingen.eric@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Overview of Action

EPA is required to determine whether areas designated nonattainment for an ozone NAAQS attained the standard by the applicable attainment date, and to take certain steps for areas that failed to attain (see CAA section 181(b)(2)). EPA’s determination of attainment for the 2015 ozone NAAQS is based on a

nonattainment area’s design value (DV) as of the attainment date.¹

The 2015 ozone NAAQS is met at an EPA regulatory monitoring site when the DV does not exceed 0.070 parts per million (ppm). For the Moderate nonattainment areas for the 2015 ozone NAAQS addressed in this action, the attainment date was August 3, 2024. Because the DV is based on the three most recent, complete calendar years of data, attainment must occur no later than December 31 of the year prior to the attainment date (*i.e.*, December 31, 2023, in the case of Moderate nonattainment areas for the 2015 ozone NAAQS). As such, EPA’s determinations for each area are based upon the complete, quality-assured, and certified ozone monitoring data from calendar years 2021, 2022, and 2023.

This action addresses eight areas in Illinois, Indiana, Michigan, Missouri, Ohio, and Wisconsin that were classified as Moderate for the 2015 ozone NAAQS as of the Moderate area attainment date of August 3, 2024. EPA is addressing the remaining areas, including the Missouri portion of the St. Louis area, in separate actions. Table 1 provides a summary of the DVs and the EPA’s air quality-based determinations

¹ A DV is a statistic used to compare data collected at an ambient air quality monitoring site to the applicable NAAQS to determine compliance with the standard. The data handling conventions for calculating DVs for the 2015 ozone NAAQS are specified in appendix U to 40 CFR part 50. The DV for the 2015 ozone NAAQS is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration. The DV is calculated for each air quality monitor in an area, and the DV for an area is the highest DV among the individual monitoring sites located in the area.

for the eight Moderate areas addressed in this action.

TABLE 1—SUMMARY OF NONATTAINMENT AREAS IN ILLINOIS, INDIANA, MICHIGAN, MISSOURI, OHIO, AND WISCONSIN CLASSIFIED AS MODERATE FOR THE 2015 OZONE NAAQS

Nonattainment area	2021–2023 design value (DV) (ppm)	Attainment by the attainment date
Allegan County, MI	0.075	Failed to attain.
Berrien County, MI	0.073	Failed to attain.
Chicago, IL-IN-WI	0.077	Failed to attain.
Cleveland, OH	0.073	Failed to attain.
Milwaukee, WI	0.074	Failed to attain.
Muskegon County, MI	0.077	Failed to attain.
Sheboygan County, WI	0.077	Failed to attain.
St. Louis, MO-IL	0.074	Failed to attain.

EPA is finding that the eight Moderate areas in Table 1 did not attain by their attainment dates, because their 2021–2023 DVs are greater than 0.070 ppm. If EPA determines that a nonattainment area classified as Moderate failed to attain by the attainment date, CAA section 181(b)(2)(B) requires EPA to publish a determination in the **Federal Register**, no later than 6 months following the attainment date, identifying each such area and identifying the applicable reclassification.

Under CAA section 181(b)(2)(A), the effect of this determination is that these eight areas will be reclassified by operation of law as Serious on the effective date of this final rule. The reclassified areas will then be subject to the Serious area requirement to attain the 2015 ozone NAAQS as expeditiously as practicable, but not later than August 3, 2027.

Once reclassified as Serious, the relevant States must submit to EPA the SIP revisions for these areas that satisfy the statutory and regulatory requirements applicable to Serious areas established in CAA section 182(c) and in the 2015 Ozone NAAQS SIP Requirements Rule (see 83 FR 62998, December 6, 2018). EPA is establishing deadlines for submitting SIP revisions for these reclassified areas in a separate action.

II. What is the background for this action?

On October 26, 2015, EPA issued its final action to revise the NAAQS for ozone to establish a new 8-hour standard (see 80 FR 65452, October 26, 2015). In that action, EPA promulgated identical tighter primary and secondary ozone standards designed to protect public health and welfare that specified an 8-hour ozone level of 0.070 ppm. Specifically, the standards require that

the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration may not exceed 0.070 ppm.

Effective on August 3, 2018, EPA designated 52 areas throughout the country as nonattainment for the 2015 ozone NAAQS (see 83 FR 25776, June 4, 2018). In a separate action, EPA assigned classification thresholds and attainment dates based on the severity of an area’s ozone problem, determined by the area’s DV (see 83 FR 10376, May 8, 2018). EPA established the attainment date for Marginal, Moderate, and Serious nonattainment areas as 3 years, 6 years, and 9 years, respectively, from the effective date of the final designations. Thus, the attainment date for Marginal nonattainment areas for the 2015 ozone NAAQS was August 3, 2021, the attainment date for Moderate areas was August 3, 2024, and the attainment date for Serious areas is August 3, 2027. On October 7, 2022 (87 FR 60897), EPA determined that 22 areas, including the eight areas addressed in this action, did not attain the standards by the Marginal attainment date, and these areas were reclassified as Moderate by operation of law.

III. What is the statutory authority for this action?

The statutory authority for these determinations is provided by the CAA, as amended (42 U.S.C. 7401 *et seq.*). Relevant portions of the CAA include, but are not necessarily limited to, sections 181 and 182.

CAA section 107(d) provides that when the EPA establishes or revises a NAAQS, the agency must designate areas of the country as nonattainment, attainment, or unclassifiable based on whether an area is not meeting (or is contributing to air quality in a nearby area that is not meeting) the NAAQS,

meeting the NAAQS, or cannot be classified as meeting or not meeting the NAAQS, respectively. Subpart 2 of part D of title I of the CAA governs the classification, State planning, and emissions control requirements for any areas designated as nonattainment for a revised primary ozone NAAQS. In particular, CAA section 181(a)(1) requires each area designated as nonattainment for a revised ozone NAAQS to be classified at the same time as the area is designated based on the extent of the ozone problem in the area (as determined based on the area’s DV). Classifications for ozone nonattainment areas are “Marginal,” “Moderate,” “Serious,” “Severe,” and “Extreme,” in order of stringency. CAA section 182 provides the specific attainment planning and additional requirements that apply to each ozone nonattainment area based on its classification.

Section 181(b)(2)(A) of the CAA requires that within 6 months following the applicable attainment date, EPA shall determine whether an ozone nonattainment area attained the ozone standard based on the area’s DV as of that date. Under CAA section 181(a)(5) as interpreted by EPA in 40 CFR 51.1307, upon application by any State, EPA may grant a 1-year extension to the attainment date when certain criteria are met. One criterion for a first attainment date extension is that an area’s fourth highest daily maximum 8-hour value for the attainment year must not exceed the level of the standard.

In the event an area fails to attain the ozone NAAQS by the applicable attainment date and is not granted a 1-year attainment date extension, CAA section 181(b)(2)(A) requires the EPA to make the determination that an ozone nonattainment area failed to attain the ozone standard by the applicable attainment date, and requires the area to be reclassified by operation of law to the

higher of: (1) The next higher classification for the area, or (2) the classification applicable to the area's DV as of the determination of failure to attain.² Section 181(b)(2)(B) of the CAA requires EPA to publish the determination of failure to attain and accompanying reclassification in the **Federal Register** no later than 6 months after the attainment date, which in the case of the Moderate nonattainment areas considered in this determination is February 3, 2025.

Once an area is reclassified, each State that contains a reclassified area is required to submit certain SIP revisions in accordance with its more stringent classification. The SIP revisions are intended to, among other things, demonstrate how the area will attain the NAAQS as expeditiously as practicable, but no later than August 3, 2027, the Serious area attainment date for the 2015 ozone NAAQS. Per CAA section 182(i), a State with a reclassified ozone nonattainment area must submit the applicable attainment plan requirements "according to the schedules prescribed in connection with such requirements" in CAA section 182(c) for Serious areas, but EPA "may adjust applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions." EPA is addressing the SIP revision and implementation deadlines for newly reclassified Serious areas, as well as the continued applicability of Moderate area requirements that these areas may not yet have met, in a separate rulemaking.

IV. How does EPA determine whether an area has attained the standard?

The level of the 2015 ozone NAAQS is 0.070 ppm.³ Under EPA regulations at 40 CFR part 50, appendix U, the 2015 ozone NAAQS is attained at a site when the 3-year average of the annual fourth highest daily maximum 8-hour average

² All nonattainment areas named in this action that failed to attain by the attainment date would be classified to the next higher classification, Serious. None of the affected areas has a DV that would otherwise place an area in a higher classification.

³ See 40 CFR 50.19.

ambient ozone concentration (*i.e.*, DV) does not exceed 0.070 ppm. When the DV does not exceed 0.070 ppm at each ambient air quality monitoring site within the area, the area is deemed to be attaining the ozone NAAQS. Each area's DV is determined by the highest DV among monitors with valid DVs.⁴ The data handling convention in appendix P dictates that concentrations shall be reported in "ppm" to the third decimal place, with additional digits to the right being truncated. Thus, a computed 3-year average ozone concentration of 0.071 ppm is greater than 0.070 ppm and would exceed the standard, but a computed 3-year average ozone concentration of 0.0709 ppm is truncated to 0.070 ppm and attains the 2015 ozone NAAQS.

EPA's determination of attainment is based upon hourly ozone concentration data for calendar years 2021, 2022 and 2023 that have been collected and quality-assured in accordance with 40 CFR part 58 and reported to EPA's Air Quality System (AQS) database.⁵

State and local monitoring network plans are subject to approval by EPA on an annual basis and any interim modifications to those plans must also

⁴ According to appendix U to 40 CFR part 50, ambient monitoring sites with a DV of 0.070 ppm or less must meet minimum data completeness requirements in order to be considered valid. These requirements are met for a 3-year period at a site if daily maximum 8-hour average ozone concentrations are available for at least 90% of the days within the ozone monitoring season, on average, for the 3-year period, with a minimum of at least 75% of the days within the ozone monitoring season in any one year. Ozone monitoring seasons are defined for each State in appendix D to 40 CFR part 58. DVs greater than 0.070 ppm are considered to be valid regardless of the data completeness.

⁵ EPA maintains the AQS, a database that contains ambient air pollution data collected by EPA, State, local, and tribal air pollution control agencies. The AQS also contains meteorological data, descriptive information about each monitoring station (including its geographic location and its operator) and data quality assurance/quality control information. The AQS data is used to (1) assess air quality, (2) assist in attainment/non-attainment designations, (3) evaluate SIPs for non-attainment areas, (4) perform modeling for permit review analysis, and (5) prepare reports for Congress as mandated by the CAA. Access is through the website at <https://www.epa.gov/aqs>.

be approved by EPA.⁶ The annual monitoring network plan process is provided in 40 CFR 58.10 and the requirements governing system modifications and monitor discontinuations are laid out in 40 CFR 58.14. Where State or local agencies seek to modify the ambient air quality monitoring networks by discontinuing a monitor station, EPA may approve such modifications subject to the criteria established in 40 CFR 58.14(c). EPA may not approve such discontinuation if doing so would compromise data collection needed for implementation of a NAAQS. If a monitor has been discontinued subject to 40 CFR 58.14 such that the discontinuation results in insufficient data to calculate a valid DV according to appendix U to 40 CFR part 50, EPA will determine the applicable area's attainment status based on the remaining monitors in the area.

V. What is EPA's determination for the areas?

EPA is determining that the eight Moderate nonattainment areas addressed in this action failed to attain the 2015 ozone NAAQS by the attainment date of August 3, 2024. The eight areas are: Allegan County, MI; Berrien County, MI; Chicago, IL-IN-WI; Cleveland, OH; Milwaukee, WI; Muskegon County, MI; Sheboygan County, WI; and the Illinois portion of the St. Louis, MO-IL area. As shown in Table 1, at least one monitor in each of these areas had a 2021–2023 DV greater than 0.070 ppm. EPA has further determined that these areas did not meet the requirement under section 181(a)(5)(B) and 40 CFR 51.1307 necessary to grant a 1-year extension of the attainment date, because at least one monitor in each area had a 2023 fourth highest daily maximum 8-hour average that was greater than 0.070 ppm. Table 2 through Table 9 show the annual fourth highest daily maximum 8-hour average ozone concentration and 2021–2023 DV for each monitor in the eight areas.

⁶ Annual monitoring network plans for each State are available at <https://www.epa.gov/amtic/state-monitoring-agency-annual-air-monitoring-plans-and-network-assessments>.

TABLE 2—2021–2023 FOURTH HIGHEST DAILY MAXIMUM 8-HOUR AVERAGE OZONE CONCENTRATIONS AND DESIGN VALUES AT ALL MONITORS IN THE ALLEGAN COUNTY, MI AREA

AQS Site ID	County	State	Fourth highest daily maximum 8-hour average ozone concentration (ppm)			2021–2023 design value (DV) (ppm)
			2021	2022	2023	
26–005–0003	Allegan	Michigan	0.078	0.073	0.075	0.075

TABLE 3—2021–2023 FOURTH HIGHEST DAILY MAXIMUM 8-HOUR AVERAGE OZONE CONCENTRATIONS AND DESIGN VALUES AT ALL MONITORS IN THE BERRIEN COUNTY, MI AREA

AQS Site ID	County	State	Fourth highest daily maximum 8-hour average ozone concentration (ppm)			2021–2023 design value (DV) (ppm)
			2021	2022	2023	
26–021–0014	Berrien	Michigan	0.069	0.074	0.078	0.073

TABLE 4—2021–2023 FOURTH HIGHEST DAILY MAXIMUM 8-HOUR AVERAGE OZONE CONCENTRATIONS AND DESIGN VALUES AT ALL MONITORS IN THE CHICAGO, IL-IN-WI AREA

AQS Site ID	County	State	Fourth highest daily maximum 8-hour average ozone concentration (ppm)			2021–2023 design value (DV) (ppm)
			2021	2022	2023	
17–031–0001	Cook	Illinois	0.068	0.073	0.082	0.074
17–031–0032	Cook	Illinois	0.077	0.072	0.083	0.077
17–031–0076	Cook	Illinois	0.070	0.074	0.080	0.074
17–031–1003	Cook	Illinois	0.068	0.070	0.073	0.070
17–031–1601	Cook	Illinois	0.072	0.071	0.081	0.074
17–031–3103	Cook	Illinois	0.060	0.062	0.081	0.067
17–031–4002	Cook	Illinois	0.067	0.068	0.080	0.071
17–031–4007	Cook	Illinois	0.069	0.070	0.083	0.074
17–031–4201	Cook	Illinois	0.075	0.070	0.086	0.077
17–031–7002	Cook	Illinois	0.078	0.071	0.081	0.076
17–043–6001	DuPage	Illinois	0.069	0.068	0.082	0.073
17–089–0005	Kane	Illinois	0.068	0.070	0.084	0.074
17–097–1007	Lake	Illinois	0.077	0.070	0.081	0.076
17–111–0001	McHenry	Illinois	0.069	0.070	0.084	0.074
17–197–1011	Will	Illinois	0.065	0.064	0.080	0.069
18–089–0022	Lake	Indiana	0.070	0.071	0.076	0.072
18–089–2008	Lake	Indiana	0.068	0.069	0.075	0.070
18–127–0024	Porter	Indiana	0.072	0.073	0.077	0.074
18–127–0026	Porter	Indiana	0.066	0.067	0.072	0.068
55–059–0019	Kenosha	Wisconsin	0.079	0.070	0.084	0.077
55–059–0025	Kenosha	Wisconsin	0.072	0.071	0.080	0.074

TABLE 5—2021–2023 FOURTH HIGHEST DAILY MAXIMUM 8-HOUR AVERAGE OZONE CONCENTRATIONS AND DESIGN VALUES AT ALL MONITORS IN THE CLEVELAND, OH AREA

AQS Site ID	County	State	Fourth highest daily maximum 8-hour average ozone concentration (ppm)			2021–2023 design value (DV) (ppm)
			2021	2022	2023	
39–035–0034	Cuyahoga	Ohio	0.070	0.073	0.071	0.071
39–035–0060	Cuyahoga	Ohio	0.059	0.061	0.065	0.061
39–035–0064	Cuyahoga	Ohio	0.069	0.065	0.075	0.069
39–035–5002	Cuyahoga	Ohio	0.068	0.065	0.073	0.068
39–055–0004	Geauga	Ohio	0.067	0.064	0.066	0.065
39–085–0003	Lake	Ohio	0.072	0.076	0.072	0.073
39–085–0007	Lake	Ohio	0.063	0.062	0.073	0.066
39–093–0018	Lorain	Ohio	0.059	0.063	0.064	0.062
39–103–0004	Medina	Ohio	0.065	0.067	0.072	0.068
39–133–1001	Portage	Ohio	0.067	0.071	0.070	0.069
39–153–0026	Summit	Ohio	0.066	0.069	0.071	0.068

TABLE 6—2021–2023 FOURTH HIGHEST DAILY MAXIMUM 8-HOUR AVERAGE OZONE CONCENTRATIONS AND DESIGN VALUES AT ALL MONITORS IN THE MILWAUKEE, WI AREA

AQS Site ID	County	State	Fourth highest daily maximum 8-hour average ozone concentration (ppm)			2021–2023 design value (DV) (ppm)
			2021	2022	2023	
55–0790010	Milwaukee	Wisconsin	0.066	0.065	0.068	0.066
55–079–0068	Milwaukee	Wisconsin	0.071	0.070	0.076	0.072
55–079–0085	Milwaukee	Wisconsin	0.072	0.074	0.076	0.074
55–089–0008	Ozaukee	Wisconsin	0.072	0.072	0.077	0.073
55–089–0009	Ozaukee	Wisconsin	0.073	0.071	0.077	0.073

TABLE 7—2021–2023 FOURTH HIGHEST DAILY MAXIMUM 8-HOUR AVERAGE OZONE CONCENTRATIONS AND DESIGN VALUES AT ALL MONITORS IN THE MUSKEGON COUNTY, MI AREA

AQS Site ID	County	State	Fourth highest daily maximum 8-hour average ozone concentration (ppm)			2021–2023 design value (DV) (ppm)
			2021	2022	2023	
26–121–0039	Muskegon	Michigan	0.075	0.082	0.075	0.077

TABLE 8—2021–2023 FOURTH HIGHEST DAILY MAXIMUM 8-HOUR AVERAGE OZONE CONCENTRATIONS AND DESIGN VALUES AT ALL MONITORS IN THE SHEBOYGAN COUNTY, WI AREA

AQS Site ID	County	State	Fourth highest daily maximum 8-hour average ozone concentration (ppm)			2021–2023 design value (DV) (ppm)
			2021	2022	2023	
55–117–0006	Sheboygan	Wisconsin	0.073	0.077	0.082	0.077
55–117–0009	Sheboygan	Wisconsin	0.066	0.071	0.074	0.070

TABLE 9—2021–2023 FOURTH HIGHEST DAILY MAXIMUM 8-HOUR AVERAGE OZONE CONCENTRATIONS AND DESIGN VALUES AT ALL MONITORS IN THE ST. LOUIS, MO-IL AREA

AQS Site ID	County	State	Fourth highest daily maximum 8-hour average ozone concentration (ppm)			2021–2023 design value (DV) (ppm)
			2021	2022	2023	
17–119–0120	Madison	Illinois	0.070	0.076	0.078	0.074
17–119–0122	Madison	Illinois	0.070	0.067	0.078	0.071
17–1193007	Madison	Illinois	0.070	0.072	0.077	0.073
17–163–0010	St. Clair	Illinois	0.070	0.066	0.067	0.077
29–099–0019	Jefferson	Missouri	0.073	0.067	0.078	0.072
29–183–1002	St. Charles	Missouri	0.067	0.071	0.080	0.072
29–183–1004	St. Charles	Missouri	0.065	0.067	0.073	0.068
29–510–0085	St. Louis City	Missouri	0.068	0.068	0.077	0.071

VI. What action is EPA taking?

Pursuant to CAA section 181(b)(2), EPA is determining that the Allegan County, MI; Berrien County, MI; Chicago, IL-IN-WI; Cleveland, OH; Milwaukee, WI; Muskegon County, MI; Sheboygan County, WI; and Illinois portion of the St. Louis, MO-IL areas failed to attain the 2015 ozone NAAQS by the applicable attainment date of August 3, 2024. Therefore, upon the effective date of this final action, these areas will be reclassified, by operation of law, to Serious for the 2015 ozone

NAAQS. Once reclassified as Serious, these areas will be required to attain the standard “as expeditiously as practicable” but no later than 9 years after the initial designation as nonattainment, which in this case would be no later than August 3, 2027.

Section 553 of the APA, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice

and an opportunity for public comment. EPA has determined that there is good cause for making this final agency action without prior proposal and opportunity for comment because our action to determine whether these areas have attained the NAAQS by the attainment date is governed, per CAA section 181(b)(2)(A), solely by area design values as of that date. The area design values relied upon in this determination are calculations based on the certified air quality monitoring data governed by EPA’s regulations and

involve no judgment or discretion. Thus, notice and public procedures are unnecessary to take this action. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 14094: Modernizing Regulatory Review

This action is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Order 14094 (88 FR 21879, April 11, 2023).

B. Paperwork Reduction Act (PRA)

This rule does not impose an information collection burden under the provisions of the PRA of 1995 (44 U.S.C. 3501 *et seq.*). This action does not contain any information collection activities and serves only to make final determinations that the Allegan County, MI; Berrien County, MI; Chicago, IL–IN–WI; Cleveland, OH; Milwaukee, WI; Muskegon County, MI; Sheboygan County, WI; and Illinois portion of the St. Louis, MO–IL nonattainment areas failed to attain the 2015 ozone standards by the August 3, 2024, attainment date where such areas will be reclassified as Serious nonattainment for the 2015 ozone standards by operation of law upon the effective date of the final reclassification action.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This action will not impose any requirements on small entities. The determination of failure to attain the 2015 ozone standards (and resulting reclassifications), do not in and of themselves create any new requirements beyond what is mandated by the CAA. This final action would require the State to adopt and submit SIP revisions to satisfy CAA requirements and would not itself directly regulate any small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538 and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local or Tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The division of responsibility between the Federal government and the States for purposes of implementing the NAAQS is established under the CAA.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action has Tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized Tribal governments, nor preempt Tribal law.

EPA has identified one Tribal area within the nonattainment areas covered by this rulemaking, that would be potentially affected by this final action. Specifically, the boundaries of the Berrien County, MI area contains the Pokagon Band of Potawatomi Indians.

EPA has concluded that the final rule may have Tribal implications for this Tribe for the purposes of Executive Order 13175 but would not impose substantial direct costs upon the Tribe, nor would it preempt Tribal law. A Tribe that is part of an area that is reclassified from Moderate to Serious nonattainment is not required to submit a Tribal implementation plan revision to address new Moderate area requirements.

However, certain permitting requirements will change for stationary sources seeking preconstruction permits in any nonattainment areas newly reclassified as Serious, including on Tribal lands within these nonattainment areas.

EPA has communicated or intends to communicate with the potentially affected Tribe located within the boundaries of the nonattainment areas addressed in this final action, including offering government-to-government consultation, as appropriate.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not

subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on communities with environmental justice (EJ) concerns to the greatest extent practicable and permitted by law. Executive Order 14096 (Revitalizing Our Nation’s Commitment to Environmental Justice for All, 88 FR 25251, April 26, 2023) builds on and supplements E.O. 12898 and defines EJ as, among other things, the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability in agency decision-making and other Federal activities that affect human health and the environment.

EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898/14096 of achieving EJ for communities with EJ concerns.

K. Congressional Review Act

This rule is exempt from the CRA because it is a rule of particular applicability. The rule makes factual determinations for identified entities (the Allegan County, MI; Berrien County, MI; Chicago, IL–IN–WI;

Cleveland, OH; Milwaukee, WI; Muskegon County, MI; Sheboygan County, WI; and Illinois portion of the St. Louis, MO–IL areas), based on facts and circumstances specific to those entities. The determinations of attainment and failure to attain the 2015 ozone NAAQS do not in themselves create any new requirements beyond what is mandated by the CAA.

L. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 18, 2025. Filing a petition for reconsideration by the Administrator of this action does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition

for judicial review may be filed, and shall not postpone the effectiveness of this action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 6, 2024.

Debra Shore,

Regional Administrator, Region 5.

For the reasons stated in the preamble the Environmental Protection Agency amends title 40 CFR part 81 as follows:

ILLINOIS—2015 8-HOUR OZONE NAAQS
[Primary and Secondary]

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Section 81.314 is amended in the table for “Illinois—2015 8-Hour Ozone NAAQS [Primary and Secondary]” by revising the entry for “Chicago, IL-IN-WI” to read as follows:

§ 81.314 Illinois.

* * * * *

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Chicago, IL-IN-WI: Cook County. DuPage County. Grundy County (part): Aux Sable Township and Goose Lake Township. Kane County. Kendall County (part): Oswego Township. Lake County. McHenry County. Will County.	3/7/14/2021	Nonattainment	1/16/2025	Serious.
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the State has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

³ EPA revised the nonattainment boundary in response to a court decision, which did not vacate any designations for the 2015 ozone NAAQS, but which remanded the designation for the identified county. Because this additional area is part of a previously designated nonattainment area, the implementation dates for the overall nonattainment area (e.g., the August 3, 2021 attainment date) remain unchanged regardless of this later designation date.

■ 3. Section 81.315 is amended in the table for “Indiana—2015 8-Hour Ozone

NAAQS [Primary and Secondary]” by revising the entry for “Chicago, IL-IN-WI” to read as follows:

§ 81.315 Indiana.

* * * * *

INDIANA—2015 8-HOUR OZONE NAAQS
[Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Chicago, IL-IN-WI: Lake County (part): Calumet Township, Hobart Township, North Township, Ross Township, and St. John Township. Porter County (part):	3/7/14/2021	Nonattainment	1/16/2025	Serious.

INDIANA—2015 8-HOUR OZONE NAAQS—Continued
[Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Center Township, Jackson Township, Liberty Township, Pine Township, Portage Township, Union Township, Washington Township, and Westchester Township.				
* * * * *				

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

³ EPA revised the nonattainment boundary in response to a court decision, which did not vacate any designations for the 2015 ozone NAAQS, but which remanded the designation for the identified county. Because this additional area is part of a previously designated nonattainment area, the implementation dates for the overall nonattainment area (e.g., the August 3, 2021 attainment date) remain unchanged regardless of this later designation date.

* * * * *

■ 4. Section 81.323 is amended in the table for “Michigan—2015 8-Hour Ozone NAAQS [Primary and

Secondary]” by revising the entries for **§ 81.323 Michigan.** “Allegan County, MI”, “Berrien County, MI”, and “Muskegon County, MI” to read as follows:

MICHIGAN—2015 8-HOUR OZONE NAAQS
[Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Allegan County, MI Allegan County (part): Casco Township, Cheshire Township, City of Douglas, City of Holland, City of Saugatuck, Clyde Township, Fillmore Township, Ganges Township, Heath Township, Laketown Township, Lee Township, Manilus Township, Overisel Township, Saugatuck Township, and Valley Township.	Nonattainment	1/16/2025	Serious.
Berrien County, MI: Berrien County.	Nonattainment	1/16/2025	Serious.
* * * * *				
Muskegon County, MI Muskegon County (part): Blue Lake Township, City of Montague, City of Muskegon, City of Muskegon Heights, City of North Muskegon, City of Roosevelt Park, City of Whitehall, Dalton Township, (incl. Village of Lakewood Club), Fruitland Township, Fruitport Township, (incl. Village of Fruitport), Laketon Township, Montague Township, Muskegon Township, Norton Shores Township, White River Township, and Whitehall Township.	Nonattainment	1/16/2025	Serious.
* * * * *				

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the State has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

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■ 5. Section 81.336 is amended in the table for “Ohio—2015 8-Hour Ozone

NAAQS [Primary and Secondary]” by revising the entry for “Cleveland, OH” to read as follows: **§ 81.336 Ohio.**

* * * * *

OHIO—2015 8-HOUR OZONE NAAQS
[Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
* * * * *	*	*	*	*
Cleveland, OH Cuyahoga County. Geauga County. Lake County. Lorain County. Medina County. Portage County. Summit County.	Nonattainment	1/16/2025	Serious.
* * * * *	*	*	*	*

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the State has regulatory authority under the Clean Air Act for such Indian country.
² This date is August 3, 2018, unless otherwise noted.

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 ■ 6. Section 81.350 is amended in the table for “Wisconsin—2015 8-Hour Ozone NAAQS [Primary and Secondary]” by revising the entries for “Chicago IL-IN-WI”, “Milwaukee, WI”, and “Sheboygan County, WI” to read as follows: **§ 81.350 Wisconsin.**
 * * * * *

WISCONSIN—2015 8-HOUR OZONE NAAQS
[Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Chicago, IL-IN-WI	⁵ 7/14/2021	Nonattainment	1/16/2025	Serious.
Kenosha County (part): The portion of Kenosha County bounded by the Lake Michigan shoreline on the East, the Kenosha County boundary on the North, the Kenosha County boundary on the South, and the I-94 corridor (including the entire corridor) on the West.				
* * * * *	*	*	*	*
Milwaukee, WI	⁵ 7/14/2021	Nonattainment	1/16/2025	Serious.
Milwaukee County. Ozaukee County. Racine County (part): Inclusive and east of the following roadways going from the northern county boundary to the southern county boundary: Highway 45 to Washington Ave. to South Beaumont Ave. Washington County (part): Inclusive and east of the following roadways going from the northern county boundary to the southern county boundary: County H to N Main St/Old US Hwy 45 to WI-60 Trunk E to WI-164 S. Waukesha County (part): Going from the western county boundary to the southern county boundary: Inclusive and north of I-94 and inclusive and east of Highway 67.				
Sheboygan County, WI	⁵ 7/14/2021	Nonattainment	1/16/2025	Serious.
Sheboygan County (part):				

WISCONSIN—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Inclusive and east of the following roadways with the boundary starting from north to south: Union Road which turns into County Road Y which turns into Highland Drive, to Lower Road which turns into Monroe Street, to Broadway/Main Street to Highway 32 which turns into Giddings Avenue to County Road W to County Road KW.				

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the State has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

⁵ EPA revised the nonattainment boundary in response to a court decision, which did not vacate any designations for the 2015 ozone NAAQS, but which remanded the designation for the identified county. Because this additional area is part of a previously designated nonattainment area, the associated implementation dates for the overall nonattainment area (e.g., the August 3, 2021 attainment date) remain unchanged regardless of this later designation date.

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[FR Doc. 2024–29137 Filed 12–16–24; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R03–OAR–2023–0419; FRL–11736–02–R3]

Redesignation of Portions of Westmoreland and Cambria Counties, Pennsylvania for the 2010 Sulfur Dioxide (SO₂) National Ambient Air Quality Standards (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (the EPA or the Agency) is finalizing the redesignation of portions of Cambria County and Westmoreland County, Pennsylvania, to “nonattainment” for the 2010 1-hour primary sulfur dioxide (SO₂) national ambient air quality standard (NAAQS or standard). Westmoreland County was previously designated “attainment/unclassifiable,” and Cambria County was designated “unclassifiable.” The EPA notified the Commonwealth of Pennsylvania of its intended redesignation of portions of Cambria and Westmoreland counties on February 17, 2023, and published a Notice of Availability (NOA) for this action on February 12, 2024. The EPA’s redesignation of portions of these counties is based on modeled violations of the 2010 1-hour primary SO₂ NAAQS.

DATES: This final rule is effective on January 16, 2025.

ADDRESSES: The EPA has established a docket for this redesignation under Docket ID Number EPA–R03–OAR–2023–0419. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through www.regulations.gov, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

The EPA has established a website for the designations for the 2010 SO₂ NAAQS at www.epa.gov/sulfur-dioxide-designations/sulfurdioxide-designations-regulatory-actions. This final redesignation action, associated technical support documents, and other related information will be added to this website.

FOR FURTHER INFORMATION CONTACT: Ellen Schmitt, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–5787. Ms. Schmitt can also be reached via electronic mail at schmitt.ellen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose of the EPA’s Final Action

The EPA is required by Clean Air Act (CAA) section 107(d) to designate all areas throughout the nation as attaining or not attaining the NAAQS within two years of the promulgation of any new or revised NAAQS. Pursuant to CAA section 107(d), the EPA must designate as “nonattainment” those areas that violate the NAAQS and those nearby areas that contribute to violations. Once an area has been designated, the EPA Administrator, under CAA section 107(d)(3), may at any time notify a state that a designation should be revised.

Under section 109 of the CAA, the EPA has established primary and secondary NAAQS for certain pervasive air pollutants and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established. The primary NAAQS represent ambient air quality standards, the attainment and maintenance of which the EPA has determined, including a margin of safety, are requisite to protect the public health. The secondary NAAQS represent ambient air quality standards, the attainment and maintenance of which the EPA has determined are requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air.

On June 22, 2010 (75 FR 35520), the EPA finalized the revision of the 1-hour primary SO₂ NAAQS, codified at 40 Code of Federal Regulations (CFR) 50.17, which became effective on August 23, 2010 (hereafter referred to as the 2010 SO₂ NAAQS). The 2010 SO₂ NAAQS is met at an ambient air quality