



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[EPA-R02-OAR-2025-0004; FRL-12573-01-R2]

### **Finding of Failure to Attain and Reclassification of Area in New York as Serious for the 2015 Ozone National Ambient Air Quality Standards – Shinnecock Indian Nation**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final determination.

**SUMMARY:** The Environmental Protection Agency (EPA) is determining that Indian country under the jurisdiction of the Shinnecock Indian Nation located within the New York-Northern New Jersey-Long Island nonattainment area (Shinnecock Indian Nation area) 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 area will be reclassified by operation of law to “Serious” nonattainment for the 2015 ozone NAAQS on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, the effective date of this final rule. This action fulfills the 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 **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID Number EPA-R02-OAR-2025-0004 at <https://www.regulations.gov>. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the

index, some information is not publicly available, e.g., Controlled Unclassified Information (CUI) (formally referred to as 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 electronically through <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Fausto Taveras, Environmental Protection Agency, 290 Broadway, New York, New York 10007-1866, at (212) 637-3378, or by email at [Taveras.Fausto@epa.gov](mailto:Taveras.Fausto@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

**Table of Contents**

- I. Overview of action
- II. What is the background for this action?
- III. What is the statutory authority for this action?
- IV. How does EPA determine whether an area has attained the standard?
- V. What is EPA’s determination for the areas?
- VI. What Action is EPA Taking?
- VII. Statutory and Executive Order Reviews

**I. Overview of action.**

The 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)). The 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.<sup>1</sup>

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 area 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, the 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.

In 2024, New Jersey, New York, and Connecticut each submitted a request that EPA reclassify the New York-Northern New Jersey-Long Island ozone nonattainment area from Moderate to Serious nonattainment for the 2015 ozone NAAQS.<sup>2</sup> EPA finalized the reclassification in a July 25, 2024 Federal Register notice, 89 FR 60314, in which we made clear that since the Shinnecock Indian Nation, which is located adjacent to Southampton, New York, had not requested reclassification of the Shinnecock Indian Nation area of the New York-Northern New Jersey-Long Island nonattainment area for the 2015 ozone NAAQS, it would retain the Moderate classification. This action addresses the Shinnecock Indian Nation area in New York that remains classified as Moderate for the 2015 ozone NAAQS Table 1 provides a summary of the DVs and the

---

<sup>1</sup> 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.

<sup>2</sup> Connecticut requested reclassification from moderate to Severe or, in the alternative, to Serious if the States of both New York and Connecticut did not both submit requests to reclassify the area to Severe but did submit requests to reclassify the area to Serious. See 89 FR 60314 (July 25, 2024).

EPA's air quality-based determinations for the Shinnecock Indian Nation area addressed in this action.<sup>3</sup>

**Table 1. Summary of nonattainment areas in New York classified as Moderate for the 2015 ozone NAAQS**

Nonattainment area	2021-2023 design value (DV) (ppm)	Attainment by the attainment date
New York-N. New Jersey-Long Island nonattainment area (including the Shinnecock Indian Nation)	0.082	Failed to attain

The EPA is finding that the Shinnecock Indian Nation area did not attain the 2015 Ozone NAAQS by the August 3, 2024, Moderate area attainment date, because the area's 2021-2023 DV is greater than 0.070 ppm. If the EPA determines that a nonattainment area classified as Moderate failed to attain by the attainment date, CAA section 181(b)(2)(B) requires the EPA to publish a notice 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 the Shinnecock Indian Nation area 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.

Under the CAA and the Tribal Authority Rule (TAR), tribes may, but are not required to, submit implementation plans to the EPA for approval (*see* CAA section 301(d) and 40 CFR part 49). Accordingly, the Shinnecock Indian Nation will not be required to submit any Tribal Implementation Plan (TIP) revisions applicable to Serious areas established in CAA section 182(c) and in the 2015 Ozone NAAQS SIP

---

<sup>3</sup> Since the Shinnecock Nation is located within the geographic boundaries of the New York-Northern New Jersey-Long Island nonattainment area, that nonattainment area's design value and the EPA's air-quality based determination will be used as a basis to determine if the Shinnecock Indian Nation attained the August 3, 2024, 2015 ozone NAAQS Moderate attainment date.

Requirements Rule (*see* 83 FR 62998, December 6, 2018). Tribes that are part of multi-jurisdictional nonattainment areas are also not required to submit implementation plan revisions applicable to Serious areas.

The EPA has conducted outreach with the Shinnecock Indian Nation in regard to this final action. Specifically, on November 25, 2024, the EPA sent a consultation letter to the Shinnecock Indian Nation notifying the Nation of the EPA's intent to reclassify the area to Serious nonattainment. This consultation letter offered a 30-day period in which the Shinnecock Indian Nation could request government-to-government consultation with the EPA during development of this rulemaking. A copy of this signed consultation letter is provided in the docket of this rulemaking.

Finally, on January 17, 2025, the EPA published a final rule to streamline state planning and air quality protection requirements under the current and future ozone NAAQS. This separate final rule establishes universal deadlines for submitting SIP revisions and for implementation of relevant control requirements that will apply for reclassified Moderate, Serious, and Severe nonattainment areas. *See* 90 FR 5651.<sup>4</sup>

## **II. What is the background for this action?**

On October 26, 2015, the 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, the EPA promulgated more stringent identical 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.

---

<sup>4</sup> On June 3, 2025, the EPA announced its reconsideration of the 2025 State Implementation Plan Submittal Deadlines and Implementation Requirements for Reclassified Nonattainment Areas Under the Ozone National Ambient Air Quality Standards. The EPA will issue a proposal in the Federal Register in the coming months, soliciting public comments. *See* <https://www.epa.gov/ground-level-ozone-pollution/ozone-implementation-regulatory-actions>.

Effective on August 3, 2018, the 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, the 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). The 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. Effective August 3, 2018, the EPA classified the New York-Northern New Jersey-Long Island area, including the Shinnecock Indian Nation, under the CAA as Moderate for the 2015 8-hour ozone NAAQS. *See* 83 FR 25776 (June 4, 2018).

### **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. 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, the 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 the EPA in 40 CFR 51.1307, upon application by any state, the 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.<sup>5</sup> Section 181(b)(2)(B) of the CAA requires the 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 was 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

---

<sup>5</sup> 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.

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 the 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.” The EPA has addressed 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. As described earlier, under the CAA and the TAR, tribes may, but are not required to, submit implementation plans to the EPA for approval. Accordingly, for the Shinnecock Indian Nation nonattainment area, the Indian Nation would not be required to submit any Tribal Implementation Plan (TIP) revisions 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).

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

The level of the 2015 ozone NAAQS is 0.070 ppm.<sup>6</sup> Under the 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 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

---

<sup>6</sup> See 40 CFR 50.19.

monitors with valid DVs.<sup>7</sup> The data handling convention in appendix U 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.

The 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 the EPA's Air Quality System (AQS) database.<sup>8</sup>

State and local monitoring network plans are subject to approval by the EPA on an annual basis and any interim modifications to those plans must also be approved by the EPA.<sup>9</sup> 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, the EPA may approve such modifications subject to the criteria established in 40 CFR 58.14(c). The EPA may not approve such discontinuation if doing so would compromise data collection needed for

---

<sup>7</sup> 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.

<sup>8</sup> The EPA maintains the AQS, a database that contains ambient air pollution data collected by the 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>.

<sup>9</sup> 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>.

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?**

The EPA is determining that the one Moderate nonattainment area addressed in this action failed to attain the 2015 ozone NAAQS by the attainment date of August 3, 2024. The one area is the Shinnecock Indian Nation located in New York State. As shown in Table 2, at least one monitor in the area had a 2021-2023 DV greater than 0.070 ppm. The EPA has further determined that this area 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 the area had a 2023 fourth highest daily maximum 8-hour average that was greater than 0.070 ppm. Table 2 shows the annual fourth highest daily maximum 8-hour average ozone concentration and the 2021-2023 DV for each monitor in the one area.

**Table 2. 2021-2023 fourth highest daily maximum 8-hour average ozone concentrations and design values at all monitors in the New York-N. New Jersey-Long Island 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	
090010017	Fairfield	Connecticut	0.078	0.077	0.082	0.079
090011123	Fairfield	Connecticut	0.071	0.075	0.075	0.073
090013007	Fairfield	Connecticut	0.086	0.081	0.081	0.082
090019003	Fairfield	Connecticut	0.086	0.081	0.079	0.082
090079007	Middlesex	Connecticut	0.078	0.073	0.075	0.075
090090027	New Haven	Connecticut	0.071	0.072	0.069	0.070
090099002	New Haven	Connecticut	0.083	0.076	0.078	0.079
340030006	Bergen	New Jersey	0.076	0.063	0.071	0.070
340130003	Essex	New Jersey	0.066	NV*	NV*	NV*
340170006	Hudson	New Jersey	0.070	0.065	0.068	0.067
340190001	Hunterdon	New Jersey	0.066	0.063	0.073	0.067
340230011	Middlesex	New Jersey	0.070	0.068	0.075	0.071
340250005	Monmouth	New Jersey	0.071	0.069	0.070	0.070
340273001	Morris	New Jersey	0.064	0.062	0.071	0.065
340315001	Passaic	New Jersey	0.062	0.058	0.071	0.063
340410007	Warren	New Jersey	0.062	0.060	0.054	0.058

360050110	Bronx	New York	0.070	0.064	0.069	0.067
360050133	Bronx	New York	0.074	0.065	0.072	0.070
360610135	New York	New York	0.076	0.065	0.073	0.071
360810124	Queens	New York	0.074	0.070	0.074	0.072
360850111	Richmond	New York	0.074	0.063	0.070	0.069
360870005	Rockland	New York	0.064	0.062	0.072	0.066
361030002	Suffolk	New York	0.079	0.074	0.074	0.075
361030004	Suffolk	New York	0.070	0.066	0.070	0.068
361030009	Suffolk	New York	0.069	0.069	NV	NV
361030044	Suffolk	New York	0.075	0.070	0.076	0.073
361192004	Westchester	New York	0.071	0.066	0.072	0.069

NV= Not valid due to incomplete ozone data.

\*Newark Firehouse in Essex County (AQS ID 34-013-0003) closed on 09/26/2022

## VI. What Action is EPA Taking?

Pursuant to CAA section 181(b)(2), the EPA is determining that the Shinnecock Indian Nation area 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, this area will be reclassified, by operation of law, to Serious for the 2015 ozone NAAQS. Once reclassified as Serious, this area 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 Administrative Procedure Act, 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. The 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 this area has 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 notice 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. The 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*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

### *B. Executive Order 14192: Unleashing Prosperity Through Deregulation*

This action is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because determinations of attainment by the attainment date under the CAA are exempt from review under Executive Order 12866;

### *C. 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 Shinnecock Indian Nation nonattainment area 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.

### *D. 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.

*E. 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.

*F. 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.

*G. 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.

The EPA has identified that the Shinnecock Indian Nation that is located within the New York-Northern New Jersey-Long Island nonattainment area, that would be potentially affected by this rulemaking. The EPA has addressed the remaining portions of the New York-Northern New Jersey-Long Island nonattainment area in a separate rulemaking.

The EPA has concluded that the final rule may have Tribal implication for the Shinnecock Indian Nation for the purposes of Executive Order 13175 but would not impose substantial direct costs upon the Nation, nor would it preempt Tribal law. As noted previously, a tribe that is part of an area that is reclassified from Moderate to Serious nonattainment is not required to submit a TIP revision to address new Serious

area requirements. However, since the EPA intends to finalize the determinations of failure to attain in this action, the NNSR major source threshold and offset requirements would change for stationary sources seeking preconstruction permits in any nonattainment area newly reclassified as Serious, including on Tribal lands within these nonattainment areas. Areas that are already classified Serious for a previous ozone NAAQS, which is the case for the Shinnecock Indian Nation, are already subject to these higher offset ratios and lower thresholds, so a reclassification to Serious for the 2015 ozone NAAQS would have no effect on NNSR permitting requirements for Tribal lands in those areas. The EPA has communicated with the Shinnecock Indian Nation located within the boundaries of the nonattainment area addressed in this final rule to inform them of this action.

*H. 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.

*I. 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.

*J. 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.

*K. Congressional Review Act (CRA)*

This rule is exempt from the CRA because it is a rule of particular applicability. The rule makes factual determinations for an identified entity (Shinnecock Indian Nation area), based on facts and circumstances specific to that entity. 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 **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. 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 or 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, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Michael Martucci,**  
*Regional Administrator,*  
*EPA Region 2.*

For the reasons stated in the preamble, title 40 CFR part 81 is amended as

follows:

**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 81.333 is amended in the table for “New York—2015 8-Hour Ozone NAAQS [Primary and Secondary]” by revising the entry for “Shinnecock Indian Nation” to read as

follows:

**§ 81.333 New York.**

\* \* \* \* \*

New York – 2015 8-Hour Ozone NAAQS

[Primary and Secondary]

Designated area <sup>1</sup>	Designation		Classification	
	Date <sup>2</sup>	Type	Date	Type
* * * * *				
Shinnecock Indian Nation	.....	Nonattainment	<b>[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]</b>	Serious

\* \* \* \* \*

[FR Doc. 2025-14472 Filed: 7/30/2025 8:45 am; Publication Date: 7/31/2025]

<sup>1</sup> 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.

<sup>2</sup> This date is August 3, 2018, unless otherwise noted.