



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-R05-OAR-2022-0004; FRL-13336-01-R5]

**Designation of Areas for Air Quality Planning Purposes;
Michigan; Technical Amendment**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Detroit, Michigan area was redesignated to attainment of the 2015 ozone National Ambient Air Quality Standards (NAAQS) on May 19, 2023. On December 5, 2025, the United States Court of Appeals for the Sixth Circuit vacated the Environmental Protection Agency's (EPA's) redesignation of the Detroit area. Therefore, pursuant to the Court's decision, the EPA is making a technical amendment to the part 81 listing for the Detroit area to reflect the area's designation as nonattainment for the 2015 ozone NAAQS, with a classification of Moderate.

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 No. EPA-R05-OAR-2022-0004. 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, 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 please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Air and Radiation Division (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 353-4489, email address: svingen.eric@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean the EPA.

I. Background Information.

The EPA designated the Detroit, Michigan area (Detroit area) as Marginal nonattainment for the 2015 ozone NAAQS on June 4, 2018 (83 FR 25776) (effective August 3, 2018). The Detroit area includes Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties. On February 1, 2023 (88 FR 6633), the EPA determined that the Detroit area failed to attain the 2015 ozone NAAQS by its Marginal attainment date of August 3, 2021, based on the area's design value as of the attainment date (i.e., monitoring data from 2018-2020). As a result of that determination, the area was reclassified by operation of law to Moderate nonattainment. On January 3, 2022, the Michigan

Department of Environment, Great Lakes, and Energy submitted a request to redesignate the Detroit area to attainment of the 2015 ozone NAAQS based on monitored attainment of the NAAQS for the 2019–2021 time period. On May 19, 2023 (88 FR 32594), the EPA finalized redesignation of the Detroit area to attainment of the 2015 ozone NAAQS.

On July 17, 2023, Sierra Club petitioned the United States Court of Appeals for the Sixth Circuit (Court) for review of this action. On December 5, 2025, the Court concluded that EPA erred with respect to its legal interpretation of Clean Air Act (CAA) section 107(d)(3)(E)(v), which requires that a State “has met” all requirements applicable to the area as a prerequisite to redesignation. The Court vacated the EPA’s redesignation of the Detroit area and issued its mandate in the case on February 24, 2026. *See Sierra Club v. EPA*, 161 F.4th 934 (6th Cir. 2025). The EPA is therefore amending 40 CFR 81.323 to reflect the Court’s decision.

II. Final Action.

The EPA is amending the listing in 40 CFR 81.323 to indicate that the Detroit area is designated as nonattainment for the 2015 ozone NAAQS, with a classification of Moderate.

III. Statutory and Executive Order Reviews.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory 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 because it is taken pursuant to a decision of the United States Court of Appeals for the Sixth Circuit and merely reflects the Court's action in reinstating the area's previous designation, an action that affects the attainment status of a geographical area, and is 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 Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 beyond those imposed by state law.

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.

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

This rule does not have Tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on Tribal governments. Thus, Executive Order 13175 does not apply to this rule.

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

This action is not subject to Executive Order 13045 because it is not 3(f)(1) significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children because it approves a State program.

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

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer Advancement Act

This rulemaking does not involve technical standards.

K. Congressional Review Act

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 such rule or 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, National parks, Wilderness areas.

Dated: May 19, 2026.

Anne Vogel,
Regional Administrator, Region 5.

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 81.323 is amended by revising the entry for Detroit, MI in the table entitled “Michigan-2015 8-Hour Ozone NAAQS [Primary and Secondary]” to read as follows:

§81.323 Michigan.

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

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
* * * * *	* * * * *			
Detroit, MI: Livingston County Macomb County Monroe County Oakland County St. Clair County Washtenaw County Wayne County		Nonattainment	March 1, 2023	Moderate
* * * * *	* * * * *			

¹ Includes any Indian country in each county or area, unless otherwise specified. The 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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