

FACT SHEET

Additional Revised Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards: El Paso County, Texas and Weld County, Colorado

SUMMARY OF ACTION

- On November 17, 2021, the U.S. Environmental Protection Agency (EPA) completed its review of certain area designations for the 2015 ozone National Ambient Air Quality Standards (NAAQS) in response to a July 10, 2020, decision by the District of Columbia Circuit Court of Appeals.
- In its decision, the D.C. Circuit Court remanded, but did not vacate, EPA's original designation for 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.
- EPA re-evaluated the designations for the remanded counties by applying a uniform, nationwide analytical approach and interpretation of the designation provisions of the Clean Air Act (CAA) in considering the specific facts and circumstances of the areas using only data and information available at the time of the original designations.
- On May 24, 2021, EPA responded to the D.C. Circuit Court's remand of 14 of the 16 counties revising the boundaries for six nonattainment areas in four states (Illinois, Indiana, Missouri, and Wisconsin) and reaffirming the April 30, 2018, designation for Ottawa County, Michigan.
- EPA is completing its response to the D.C. Circuit Court's remand by expanding the initial nonattainment boundaries for the other two remanded areas: Doña Ana County (Sunland Park Area), New Mexico and the Denver Metro/North Front Range, Colorado areas. Because, in response to the Court's remand, the EPA's intended designations for the associated remanded counties of El Paso, Texas and Weld, Colorado, respectively, no longer aligned with the states' area recommendations, EPA sent letters to each state opening a 120-day period for the states to provide additional information for EPA to consider based only on data and information available at the time of the original designations. (The Agency notified both New Mexico and Texas of this planned action for the Doña Ana County area and El Paso County.) EPA also provided a 30-day period for the public to comment on the intended revisions.
- The table below summarizes EPA's decisions regarding the two remanded counties and the associated nonattainment area.

Final Actions on Two Remanded Counties: El Paso County, TX and Weld County, CO

Nonattainment Area Name	Remanded County	April 2018 Designation	Remand Designation
El Paso-Las Cruces, TX-NM ¹	El Paso, TX	Full county attainment	Full county nonattainment
Denver Metro/ North Front Range, CO	Weld, CO	Partial county nonattainment	Full county nonattainment

¹ EPA is expanding the initially designated Doña Ana County (Sunland Park Area), NM nonattainment area to include El Paso County, TX. For clarity, EPA is renaming the area as the El Paso-Las Cruces, TX-NM nonattainment area.

BACKGROUND

- On October 1, 2015, EPA revised both the primary and secondary ozone NAAQS.
- Whenever EPA establishes a new NAAQS, the CAA requires the Agency 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, three local government agencies, and the state of Illinois) filed six petitions for review challenging EPA's 2015 ozone NAAQS designations promulgated on April 30, 2018. The D.C. Circuit Court consolidated the petitions into a single case, *Clean Wisconsin v. EPA*.
- Collectively, the petitioners challenged aspects of EPA's decisions associated with nine 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 D.C. Circuit Court issued its decision on the April 30, 2018, designations granting EPA's request for voluntary remand of 10 counties and granting challengers' petitions for review for 6 additional counties. The Court remanded these 16 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.