

# Publications

## U.S. EPA Proposed Redesignation of Cleveland Area to Attainment for Ozone NAAQS

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On April 10, 2026, U.S. EPA **proposed** to redesignate the Cleveland, Ohio area to attainment for the 2015 ozone National Ambient Air Quality Standards (NAAQS) (the Proposed Rule) – an action that, if finalized, will facilitate industrial growth and expansion in the seven counties within the Cleveland non-attainment area (Cuyahoga, Geauga, Lake, Lorain, Medina, Portage and Summit) as it will remove the more stringent and costly nonattainment new source review (NNSR) requirements for new major sources and modifications. U.S. EPA is also proposing a number of related actions including: approving Ohio’s maintenance plan for the Cleveland area, which is designed to keep the area in attainment of the 2015 ozone NAAQS through 2038; adjusting the deadline for Ohio EPA to submit certain revisions to the Ohio SIP required for an area classified as Serious nonattainment for the 2015 ozone NAAQS to December 5, 2026; and approving several other elements of the Ohio SIP required for a Serious nonattainment area.

Pursuant to section 107(d)(3)(E) of the Clean Air Act (CAA), a nonattainment area can be redesignated to attainment of the NAAQS if: (1) U.S. EPA determines that the area has attained the NAAQS; (2) U.S. EPA has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) U.S. EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions; (4) U.S. EPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the State containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA. U.S. EPA determined that all of the criteria have been met for redesignation of the Cleveland area to attainment for the 2015 Ozone NAAQS, and the Proposed Rule includes a detailed discussion of each.

U.S. EPA’s findings regarding redesignation criteria #1 (the Cleveland area has attained the 2015 Ozone NAAQS) and criteria #5 (Ohio has met all requirements applicable to the Cleveland area under section 110 and part D of the CAA) are notable, and briefly discussed below.

1. **Cleveland area has attained the 2015 Ozone NAAQS (via exclusion of monitored ozone values during “exceptional events”)** – U.S. EPA’s proposed redesignation stems from U.S. EPA’s recent approval of Ohio EPA’s exceptional events request wherein Ohio EPA demonstrated a causal relationship between wildfire events in 2023 and high ozone values recorded at various monitors in the Cleveland area on June 1, 2 and 29, 2023. To attain the 2015 ozone NAAQS, the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.070 ppm. With the exclusion of the high ozone values on the dates noted above, monitoring data demonstrates that the Cleveland area’s 3-year ozone design value for 2023-2025 is 0.070 ppm, which meets the 2015 NAAQS. Ohio EPA has committed to continue monitoring ozone in this area to verify maintenance of the 2015 ozone NAAQS, and U.S. EPA will not take final action to redesignate the Cleveland Area to attainment if design value of a monitoring site in the area violates the NAAQS prior to final approval of the redesignation.
2. **Adjustment of SIP submittal deadlines to facilitate meeting requirements of section 110 and part D of the CAA** – Section 107(d)(3)(E)(v) of the CAA specifies that the State containing a nonattainment area “has met all requirements applicable to the area under section [110] of this title and part D of this subchapter.” S. EPA’s longstanding interpretation of this provision has been that requirements with submission deadlines occurring after the State’s submission of its redesignation request are not “applicable” under CAA section 107(d)(3)(E)(v) for purposes of evaluating the approvability of the redesignation. However, the Sixth Circuit Court of Appeals recently vacated Michigan’s redesignation of the Detroit nonattainment area, holding that Michigan was required to have met all requirements due at the time of the EPA’s redesignation action, not just the requirements that had been due as of the time of submittal of the redesignation request. *Sierra Club v. EPA*, 161 F.4th 934 (6th Cir. 2025).

Certain of Ohio’s section 110 and part D requirements are at issue in connection with the redesignation of the Cleveland area, including the SIP requirements for areas classified as Serious nonattainment under CAA section 182(c). Ohio EPA has submitted many of the Serious SIP requirements, and the EPA is proposing to approve those in the Proposed Rule. However, not all Serious submittals have been made – notably, Serious VOC RACT and NOx RACT requirements for major sources of VOCs and NOx. In light of the Sixth Circuit’s decision *Sierra Club v. EPA*, and to facilitate redesignation of the Cleveland area without requiring Ohio EPA to expend the significant resources necessary to complete these submittals, U.S. EPA is proposing to adjust the deadline for Ohio to submit Serious SIP revisions for the Cleveland area to no later than December 5, 2026.

Provided that U.S. EPA finalizes the SIP submittal deadline adjustment and the redesignation of the Cleveland area prior to December 5, 2026, Serious SIP requirements would not be considered applicable requirements for purposes of redesignation because they will not have become due.

The proposed redesignation of the Cleveland area to attainment for the 2015 Ozone NAAQS is significant on multiple fronts. First, it recognizes that air quality has improved to meet federal health-based standards and, per the requirements for redesignation, measures are in place to ensure that the area will continue to meet air quality standards. Redesignation will also facilitate industrial growth and expansion by removing the restrictive emissions requirements and permitting burdens associated with NNSR. Notably, new and modified major sources in the Cleveland area will not be required to obtain emission offset credits or install costly pollution control equipment that achieves the lowest achievable emission rate (LAER). The elimination of these requirements makes the air permitting process more efficient and predictable.

Vorys attorneys are actively analyzing the implications of the Proposed Rule on facilities in the region. Comments on the Proposed Rule are due by May 11, 2026.