

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SIERRA CLUB)
85 Second Street, 2nd Floor)
San Francisco, CA 94105,)
))
Plaintiff,)
))
v.)
))
GINA McCARTHY, Administrator,)
United States Environmental Protection)
Agency, in her official capacity,)
1200 Pennsylvania Ave, NW)
Washington, D.C. 20004,)
))
Defendant.)

Case No. _____

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

This is an action to compel the Environmental Protection Agency to respond to Sierra Club’s Petition to designate 57 communities as being in violation of the federal health standard for ozone (smog), a dangerous air pollutant linked to premature deaths and thousands of hospital and emergency room visits each year. EPA’s failure to designate these areas as violating the health standard delays the triggering of mandatory measures under the Clean Air Act to clean up unhealthy air and deprives millions of people of health protections to which they are entitled. Sierra Club filed its Petition on November 14, 2013, but EPA still has not responded in any way. Sierra Club contends that EPA’s failure to respond constitutes agency action unreasonably delayed within the meaning of the Clean Air Act and the Administrative Procedure Act, and seeks a court-ordered deadline for EPA to respond to the Petition.

JURISDICTION AND VENUE

1. This action arises under the Clean Air Act (“CAA” or “the Act”). 42 U.S.C. §7401 *et seq.* This Court has jurisdiction over this action pursuant to §304(a) of the Act, 42 U.S.C. §7604(a), and 28 U.S.C. §§1331 and 1361. This Court may compel EPA action unreasonably delayed, order the Administrator to perform the requisite acts and duties, issue a declaratory judgment, and grant further relief pursuant to CAA §304(a), 42 U.S.C. §7604(a), the Declaratory Judgment Act, 28 U.S.C. §§2201-2202, and the Administrative Procedure Act, 5 U.S.C. §§701-706. Plaintiff has a right to bring this action pursuant to § 304(a) of the Clean Air Act, 42 U.S.C. §7604(a), and the Administrative Procedure Act, 5 U.S.C. §§701-706.

2. By certified letter to the Administrator posted on January 22, 2014, Plaintiff gave the requisite 180 days’ notice of this action as required by §304(a) of the Clean Air Act, 42 U.S.C. §7604(a), and 40 C.F.R. Part 54.

3. Venue lies in this judicial district pursuant to Section 304(a) of the Clean Air Act, which provides that “an action to compel agency action ... which is unreasonably delayed may only be filed in a United States District Court within the circuit in which such action would be reviewable under section 7607(b) of this title.” 42 U.S.C. §7604(a). Plaintiff’s Petition seeks redesignations of numerous areas throughout the country, and challenges to “nationally applicable regulations promulgated, or final action taken, by the Administrator under [the Clean Air Act]” are reviewable only in the District of Columbia Circuit. *Id.* §7607(b)(1). Thus, an action for unreasonable delay in responding to Plaintiff’s Petition seeking such redesignations is properly brought in the United States District Court for the District of Columbia. *See id.* §7604(a).

4. Venue is also proper in this judicial district pursuant to 28 U.S.C. §1391(e) because the Defendant, EPA Administrator Gina McCarthy, resides in this district.

PARTIES

5. Plaintiff Sierra Club is a nonprofit corporation organized and existing under the laws of the State of California, with its headquarters located in San Francisco, California. A national organization dedicated to the protection of public health and the environment, including clean air, Sierra Club has more than 615,000 members who reside in all 50 states and the District of Columbia, including in each of the areas at issue in Sierra Club's Petition.

6. Defendant Gina McCarthy is the Administrator of the EPA ("the Administrator," "EPA," or "Defendant"). In that role she is charged with the duty to uphold the Clean Air Act and to take timely required actions.

LEGAL FRAMEWORK

7. The Clean Air Act requires EPA to set and periodically revise national ambient air quality standards ("NAAQS") for pollutants like ozone to protect public health and welfare. 42 U.S.C. §§7408(a), 7409(a)-(b), (d). "Primary" standards must be set at a level "requisite to protect the public health," "allowing an adequate margin of safety." *Id.* §7409(b)(1); *see Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 475-76 (2001) (Act requires "EPA to set air quality standards at the level that is 'requisite'—that is, not lower or higher than is necessary—to protect the public health with an adequate margin of safety"). "Secondary" standards serve to protect public welfare and must be set at a level "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." 42 U.S.C. §7409(b)(2). Primary standards must be based exclusively on protection of health, without regard to implementation costs. *Whitman*, 531 U.S. at 465-71. EPA also cannot consider implementation costs when establishing a welfare-protective secondary standard. *Id.* 471 n.3.

8. A core aim of the Clean Air Act is to bring all communities in the country into compliance with NAAQS within fixed periods of time and then keep them in compliance. *See, e.g., id.* 468 (describing NAAQS as “the engine that drives nearly all of Title I of the CAA”); *Union Elec. Co. v. EPA*, 427 U.S. 246, 258 (1976) (deadline for attaining health-protective NAAQS “is central to the [CAA’s] regulatory scheme”); *Train v. Natural Res. Def. Council (“NRDC”)*, 421 U.S. 60, 66-67 (1975) (timely attainment of NAAQS is “the heart” of the CAA).

9. To promote this aim, the Act requires that within two years (extendible to a third year) of promulgating a standard, the Administrator must “designate” regions of states as either violating the NAAQS (“nonattainment” areas) or meeting the NAAQS (“attainment” areas).¹ 42 U.S.C. §7407(d)(1). A nonattainment area is “any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the [NAAQS] for the pollutant.” *Id.* §7407(d)(1)(A)(i).

10. Section 107(d)(3) of the Act also provides for the Administrator to revise an area’s designation—*i.e.*, “redesignate” it—“on the basis of air quality data, planning and control considerations, or any other air quality-related considerations.” *Id.* §7407(d)(3)(A). Thus, if air quality data shows that an area previously designated “attainment” is now violating the standard, redesignation of the area to “nonattainment” is warranted under §107(d)(3).

11. Though some anti-pollution measures may apply in all areas, the Act calls for tougher anti-pollution measures to be implemented in nonattainment areas to ensure that they come into attainment. These requirements apply expressly both to areas that the Administrator initially designates nonattainment and to areas that the Administrator redesignates

¹ Where information is insufficient to determine whether an area meets the NAAQS, the Administrator designates it as “unclassifiable.” 42 U.S.C. §7407(d)(1)(iii). Such areas are treated the same as attainment areas for regulatory purposes. *See, e.g., id.* §7471 (Part C of the Clean Air Act applies to attainment and unclassifiable areas). Thus, references herein to attainment areas encompass unclassifiable areas, too, unless specifically stated otherwise.

nonattainment. *Id.* §7511(a)(1), (b)(1). Among other things, states must adopt “all reasonably available control measures” to bring nonattainment areas into attainment within time frames set in the Act, must require stringent pollution controls at large new factories and power plants, and must assure annual emission reductions to achieve steady progress toward clean air. If a nonattainment area fails to achieve standards by its deadline, then the Act triggers requirements for even more stringent pollution controls. *Id.* §§7511-7511f.

12. Thus, Congress carefully designed the Clean Air Act to mandate adoption of specific, strong anti-pollution measures for areas with dangerous levels of ozone pollution and to require lowering of ozone pollution to safe levels in such areas within set timeframes. For that design to function, areas in violation of ozone standards must be designated as nonattainment.

13. Further, the Administrative Procedure Act gives citizens the right to petition for EPA to take action, and EPA must grant or deny the petition within a reasonable time. 5 U.S.C. §§553(e), 555(b); *see also id.* §706(1) (authorizing court to “compel agency action ... unreasonably delayed”); 42 U.S.C. §7604(a) (authorizing suits in district court “to compel agency action unreasonably delayed”).

FACTUAL BACKGROUND

14. Ozone, the main component of smog, is a corrosive air pollutant that inflames the lungs and can leave people gasping for breath. *See Am. Trucking Ass’ns v. EPA*, 283 F.3d 355, 359 (D.C. Cir. 2002). It is linked with emergency room visits, hospitalizations, asthma attacks, and premature deaths. *Mississippi v. EPA*, 744 F.3d 1334, 1340 (D.C. Cir. 2013); EPA 600/R-10/076F at 6-264 & tbl.6-54, 7-90, 7-91 tbl.7-13 (EPA Integrated Science Assessment, Feb. 2013).

15. Ozone also damages vegetation and forested ecosystems, causing or contributing to widespread leaf injury, stunting of plant and root growth, tree deaths, and reduced crop yields.

73 Fed. Reg. 16,436, 16,486/1-2, 16,496/2 (Mar. 27, 2008). By harming vegetation, ozone can also damage entire ecosystems. 72 Fed. Reg. 37,818, 37,887/2-89/2 (July 11, 2007).

16. Ozone is not emitted directly into the atmosphere, but results from the reaction of precursor chemicals with sunlight in the atmosphere. *Am. Trucking Ass'ns*, 283 F.3d at 359. Cars, power plants, and factories are among the primary sources of these precursors. *Id.*; *Am. Petroleum Inst. v. Costle*, 665 F.2d 1176, 1181 (D.C. Cir. 1981).

17. EPA promulgated the most recent ozone NAAQS in 2008. 73 Fed. Reg. 16,436. Determination of whether a community is violating the NAAQS is based on data from air quality monitoring devices (“monitors”) that measure the concentration of ozone in the air throughout each day. The resulting data is used to calculate a “design value.” *See* 40 C.F.R. pt.50 app.P, §1. Specifically, data from the ozone monitor is used to determine the maximum concentration of ozone measured over 8 hours for each day the monitor operates; the design value for that monitor is “the 3-year average of the annual fourth-highest” such 8-hour concentration. *Id.* pt.50 app.P, §§2.2, 3. If the design value exceeds 0.075 parts per million, air quality at the monitoring site does not meet the standard. *Id.* §50.15(b).

18. If any monitor within an area has a design value that exceeds 0.075 parts per million, then the entire area is deemed to be in violation of the ozone NAAQS. *See id.* pt.58 app.D, §1.2(c).

19. The Administrator promulgated designations for the entire country in 2012. 77 Fed. Reg. 30,088 (May 21, 2012) (most of country); 77 Fed. Reg. 34,221 (June 11, 2012) (12 counties in Illinois, Wisconsin, and Indiana). The Administrator “primarily” based those designations on design values for 2010, which used air quality data for 2008-2010. 77 Fed. Reg. at 30,091/1. Certain states used 2011 design values (2009-2011 air quality data). *Id.*

20. Quarterly, states must report to EPA “ambient air quality data and associated quality assurance data” for ozone. 40 C.F.R. §58.16(a). By May 1 of each year, states must certify to EPA that their air quality data for the prior year was reported and is accurate, and must provide EPA an annual summary report of the monitoring stations’ air quality data for the prior year. *Id.* §58.15(a)-(b). Annually, EPA calculates the design values for communities throughout the country. *See* epa.gov/airtrends/values.html (providing most recent design values for all pollutants for which there is a NAAQS, including ozone).

21. In July 2013, EPA released the design values for ozone for 2012. EPA updated the spreadsheet containing the design values several times, including on August 20, 2013, and, most recently, on February 7, 2014. *See* Sierra Club, Petition to the Administrator of the U.S. Environmental Protection Agency to Redesignate as Nonattainment 57 Areas with 2012 Design Values Violating the 2008 8-Hour National Ambient Air Quality Standards for Ozone 1 n.1 (Nov. 14, 2013) (relying on file named “Ozone_DesignValues_20102012_FINAL_08_20_13.xlsx”) [referred to throughout this Complaint as “Petition”]; epa.gov/airtrends/pdfs/Ozone_DesignValues_20102012_FINAL_02_07_14.xlsx (updated in February 2014) [hereinafter 2012 Design Values Document].

22. The 2012 design values showed that, nationwide, 84 counties or parts of counties that were designated “attainment” by EPA in 2012 (based on 2010 or 2011 design values) had ozone levels that do not meet (“violate”) the NAAQS.² *See* 2012 Design Values Document tbls.2, 4. These 84 counties can be grouped into 57 metropolitan areas based on the Office of Management and Budget’s (“OMB’s”) list of statistical areas, which EPA uses as the

² Part of Pinal County, Arizona, is designated nonattainment under the 2008 ozone NAAQS. 40 C.F.R. §81.303 (including part of Pinal County in Phoenix-Mesa nonattainment area). The design value of a monitor in a part of Pinal County designated attainment exceeded that NAAQS. 2012 Design Values Document tbl.2.

“presumptive” boundary for ozone nonattainment areas. Memorandum from Robert J. Meyers, Principal Deputy Ass’t Admin’r, to Regional Admin’rs, Regions I-X, at 3 (Dec. 4, 2008); *see* OMB, OMB Bulletin No. 13-01, *Revised Delineations of Metropolitan Statistical Areas, Micropolitan Statistical Areas, and Combined Statistical Areas, and Guidance on Uses of the Delineations of These Areas* (Feb. 28, 2013), available at whitehouse.gov/sites/default/files/omb/bulletins/2013/b13-01.pdf. These counties and areas are listed below, along with their EPA-reported 2012 design value:

State	County and Design Value	Area Grouping
Alabama	Jefferson County: 0.080 ppm	Birmingham-Hoover-Talladega CSA
Arizona	Pinal County (part): 0.076 ppm	Add eastern Pinal County to existing Phoenix-Mesa nonattainment area
	Yuma County: 0.077 ppm	Yuma CBSA
Arkansas	Pulaski County: 0.077 ppm	Little Rock-North Little Rock CSA
Delaware	Kent County: 0.078 ppm	Add Kent County to existing Philadelphia-Wilmington-Atlantic City nonattainment area
Illinois	Hamilton County: 0.078 ppm	Hamilton County
	Jersey County: 0.079 ppm	Add Jersey County & Lincoln County, MO, to existing St. Louis-St. Charles-Farmington nonattainment area ³
Indiana	Clark County: 0.081 ppm Floyd County: 0.079 ppm	Louisville/Jefferson County-Elizabethtown-Madison CSA ⁴
	Greene County: 0.078 ppm	Greene County
	La Porte County: 0.083 ppm	Add La Porte County to existing Chicago-Naperville nonattainment area
Kansas	Johnson County: 0.076 ppm	Kansas City-Overland Park-Kansas City CSA ⁵
	Sedgwick County: 0.077 ppm	Wichita-Arkansas City-Winfield CSA
	Sumner County: 0.077 ppm	

³ Jersey County, IL, is in the same CSA as Lincoln County, MO, which itself violates the NAAQS.

⁴ This is the same CSA as for Jefferson and Oldham Counties, KY, which themselves violate the NAAQS.

⁵ This is the same CSA as for Clay and Clinton Counties, MO, which themselves violate the NAAQS.

Kentucky	Daviess County: 0.079 ppm Hancock County: 0.076 ppm	Owensboro CBSA
	Henderson County: 0.079 ppm	Evansville (IN) CBSA
	Jefferson County: 0.085 ppm Oldham County: 0.086 ppm	Louisville/Jefferson County-Elizabethtown-Madison CSA ⁶
	McCracken County: 0.077 ppm	Paducah-Mayfield CSA
Louisiana	Bossier Parish: 0.078 ppm Caddo Parish: 0.076 ppm	Shreveport-Bossier City CBSA
	Pointe Coupee Parish: 0.077 ppm	Add Pointe Coupee Parish to existing Baton Rouge nonattainment area
Maryland	Kent County: 0.082 ppm	Add Kent County to existing Baltimore nonattainment area. ⁷
Michigan	Allegan County: 0.084 ppm Muskegon County: 0.082 ppm Ottawa County: 0.078 ppm	Grand Rapids-Wyoming-Muskegon CSA
	Berrien County: 0.082 ppm Cass County: 0.078 ppm	South Bend-Elkhart-Mishawaka CSA
	Genesee County: 0.076 ppm Lenawee County: 0.076 ppm Macomb County: 0.079 ppm Oakland County: 0.078 ppm St. Clair County: 0.077 ppm Washtenaw County: 0.076 ppm Wayne County: 0.081 ppm	Detroit-Warren-Ann Arbor CSA
Missouri	Clay County: 0.080 ppm Clinton County: 0.080 ppm	Kansas City-Overland Park-Kansas City CSA ⁸
	Jasper County: 0.078 ppm	Joplin-Miami CSA ⁹
	Lincoln County: 0.080 ppm	Add Lincoln County & Jersey County, IL, to existing St. Louis-St. Charles-Farmington nonattainment area ¹⁰
	Perry County: 0.077 ppm	Perry County

⁶ This is the same CSA as for Clark and Floyd Counties, IN, which themselves violate the NAAQS.

⁷ OMB does not include Kent County, MD, in the Washington-Baltimore-Arlington CSA. But EPA has historically grouped Kent as a unit with Queen Anne's County, which is part of the Washington-Baltimore-Arlington CSA, and the two counties were designated nonattainment for the 1997 ozone NAAQS. *See* 69 Fed. Reg. 23,858, 23,909 (Apr. 30, 2004) (codified at 40 C.F.R. §81.321); *see also* Petition 6 n.30.

⁸ This is the same CSA as for Johnson County, KS, which itself violates the NAAQS.

⁹ This is the same CSA as for Ottawa County, OK, which itself violates the NAAQS.

¹⁰ Lincoln County, MO, is in the same CSA as Jersey County, IL, which itself violates the NAAQS.

Nevada	Clark County: 0.076 ppm	Las Vegas-Henderson CSA
North Carolina	Forsyth County: 0.078 ppm Guilford County: 0.076 ppm	Greensboro-Winston-Salem-High Point CSA
Ohio	Clark County: 0.076 ppm Montgomery County: 0.078 ppm	Dayton-Springfield-Sidney CSA
	Lucas County: 0.076 ppm	Toledo-Port Clinton CSA
	Stark County: 0.079 ppm	Add Stark County to existing Cleveland-Akron-Lorain nonattainment area
	Trumbull County: 0.079 ppm	Youngstown-Warren CSA ¹¹
Oklahoma	Cherokee County: 0.076 ppm Creek County: 0.078 ppm Tulsa County: 0.080 ppm	Tulsa-Muskogee-Bartlesville CSA, Adair County, & Mayes County, OK ¹²
	Canadian County: 0.076 ppm Cleveland County: 0.076 ppm Oklahoma County: 0.079 ppm	Oklahoma City-Shawnee CSA & Caddo County, OK ¹³
	Adair County: 0.076 ppm	Include with Tulsa-Muskogee-Bartlesville CSA (as noted above)
	Caddo County: 0.077 ppm	Include with Oklahoma City-Shawnee CSA (as noted above)
	Mayes County: 0.078 ppm	Include with Tulsa-Muskogee-Bartlesville CSA (as noted above)
	Ottawa County: 0.076 ppm	Joplin-Miami CSA ¹⁴
Pennsylvania	Dauphin County: 0.077 ppm York County: 0.077 ppm	Harrisburg-York-Lebanon CSA
	Erie County: 0.076 ppm	Erie-Meadville CSA
	Indiana County: 0.079 ppm	Add Indiana County to existing Pittsburgh-Beaver Valley nonattainment area
	Mercer County: 0.079 ppm	Youngstown-Warren CSA ¹⁵

¹¹ This is the same CSA as for Mercer County, PA, which itself violates the NAAQS.

¹² Although Mayes County is located outside the Tulsa-Muskogee-Bartlesville CSA, it is immediately upwind of parts of the area. *See* Petition attach.C (map of Oklahoma and the location of Mayes County relative to the Tulsa-Muskogee-Bartlesville CSA; original map source, geo.ou.edu/images/statewells_big.jpg); *see also id.* 7 n.37.

¹³ Although Caddo County is located outside the Oklahoma City-Shawnee CSA, it is immediately west of the Oklahoma City area, and its substantial oil and gas operations likely contribute to ozone nonattainment in Oklahoma City. *See* Petition attach.C; *see also id.* 7 n.38.

¹⁴ This is the same CSA as for Jasper County, MO, which itself violates the NAAQS.

¹⁵ This is the same CSA as for Trumbull County, OH, which itself violates the NAAQS.

Rhode Island	Washington County: 0.078 ppm	Providence-Warwick CBSA
Tennessee	Hamilton County: 0.076 ppm	Chattanooga-Cleveland-Dalton CSA
	Jefferson County: 0.078 ppm Sevier County: 0.076 ppm	Add Jefferson & Sevier Counties to existing Knoxville nonattainment area
	Sumner County: 0.079 ppm	Nashville-Davidson-Murfreesboro CSA
Texas	Bexar County: 0.080 ppm	San Antonio-New Braunfels CBSA
	Gregg County: 0.079 ppm	Longview-Marshall CSA
	Hood County: 0.077 ppm	Add Hood County to existing Dallas-Fort Worth nonattainment area
	Jefferson County: 0.080 ppm	Beaumont-Port Arthur CBSA
Virginia	Charles City County: 0.079 ppm Hanover County: 0.076 ppm Henrico County: 0.078 ppm	Richmond CBSA
	Hampton City: 0.076 ppm	Virginia Beach-Norfolk CSA
	Stafford County: 0.076 ppm	Add Stafford County, VA, to existing Washington nonattainment area
Wisconsin	Kewaunee County: 0.078 ppm	Green Bay-Shawano CSA and Door & Manitowoc Counties ¹⁶
	Door County: 0.078 ppm	Include with Green Bay-Shawano CSA & Manitowoc County (as noted above)
	Manitowoc County: 0.080 ppm	Include with Green Bay-Shawano CSA & Door County (as noted above)
	Milwaukee County: 0.082 ppm Ozaukee County: 0.080 ppm Racine County: 0.081 ppm	Milwaukee-Racine-Waukesha CSA

See 2012 Design Values Document tbls.1b, 2, 4; OMB, *Revised Delineations*; see also Petition 5-9 tbl.1

23. On November 14, 2013, Sierra Club filed its Petition with EPA, asking the Administrator to redesignate the 57 areas identified above as nonattainment and, as a separate, severable request, to establish the boundaries of the nonattainment areas as described above.

¹⁶ Door, Manitowoc, and Kewaunee Counties form an unbroken line of counties and have 2012 DVs violating the 2008 NAAQS by relatively high magnitudes. See Petition 9 n.45.

Petition 10-11. Sierra Club noted that over 94 million Americans live in the metropolitan areas at issue, and that ozone levels in those areas exceeded the level EPA had identified as requisite to protect human health; thus, Sierra Club asked the Administrator to respond to the Petition within 30 days. *Id.* 1, 3-4. EPA received the Petition by mail November 18, 2013.

24. On November 29, EPA acknowledged receipt of the Petition and said, “The EPA is currently evaluating the petition. We will provide you with our response once the evaluation is completed.” Letter from Stephen D. Page, Dir., Office of Air Quality Planning & Standards, to Seth L. Johnson, Earthjustice, at 1 (Nov. 29, 2013).

25. Because EPA had not provided any substantive response, on January 22, 2014, Sierra Club notified Administrator McCarthy by certified mail that it intended to commence a citizen suit to compel the Administrator to act on the Petition unless, prior to commencement of such suit, the Administrator granted the Petition in full and began the redesignation process, granted the Petition in part and began the redesignation process while denying the remainder of the Petition, or denied the Petition in full. Letter from Seth L. Johnson, Earthjustice, to Gina McCarthy, Admin’r, EPA (Jan. 22, 2014). EPA received the notice letter by mail January 27.

26. As of the date of Sierra Club’s filing this complaint, the Administrator has not granted or denied any part of the Petition, or responded to the Petition in any way other than to acknowledge receipt thereof.

ALLEGATIONS OF INJURY

27. Plaintiff Sierra Club and its members have been and will continue to be harmed by the Administrator’s unreasonable delay in granting or denying the Petition.

28. Plaintiff works to protect the health and environmental interests of its members and the public through education, citizen organizing, and advocacy, including before EPA, other federal agencies, and in the courts.

29. Plaintiff's members live, work, travel, and recreate in the areas identified in the Petition that are designated attainment for ozone but that have ozone pollution levels that violate the 2008 ozone NAAQS. Plaintiff's members engage in a wide variety of outdoor activities in such areas including, but not limited to, birdwatching and other wildlife observation and study, gardening, flower and plant identification and study, boating, swimming, fishing, and camping. Members also enjoy using their backyards, gardens, parks, playgrounds, and nature preserves, and walking or riding bicycles in such areas. While engaging in the foregoing activities, members breathe in ozone at levels EPA has found endangers their health. Ozone at those levels also harms the natural environment that members otherwise enjoy.

30. The acts and omissions of the Administrator alleged herein cause injury to Plaintiff's members by prolonging air quality conditions that adversely affect them and endanger their health and welfare, and by nullifying or delaying measures and procedures mandated by the Act to protect their health and welfare from ozone pollution in places where they live, work, recreate and conduct other activities. Accordingly, the health, recreational, aesthetic, and procedural interests of Plaintiff and its members have been and continue to be adversely affected by the acts and omissions of the Administrator alleged herein.

31. The acts and omissions of the Administrator alleged herein further deprive Plaintiff and its members of procedural rights and protections to which they would otherwise be entitled, including, but not limited to, the right to judicially challenge final agency actions denying, in whole or in part, the Petition; the right to comment on any proposed redesignation stemming from the grant, in whole or in part, of the Petition; the right to enforce requirements of the Act for preparation and implementation of plans to remedy violations of the 2008 ozone

standard in nonattainment areas; and the right to comment on and judicially challenge such plans.

32. The acts and omission of the Administrator alleged herein also deprive Plaintiff and its members of information to which they are entitled by law, including, but not limited to, information about the sources of ozone precursors in the areas at issue, the current actual emissions of those precursors from those sources, and the basis for any grant or denial of the Petition. 42 U.S.C. §§7407(d)(3)(A), 7502(c)(3), 7511a(a)(1); 5 U.S.C. §555(e). If Plaintiff had access to such information, it would use it to, among other things, educate its members and the public about the actual amounts of ozone precursors emitted near them, help develop a better understanding of the relative contributions sources make to ozone formation, and more efficiently target Plaintiff's actions to promote effective implementation of the 2008 ozone standard.

33. In addition, the acts and omissions of the Administrator alleged herein have caused Plaintiff to divert organizational resources to other efforts aimed at addressing ozone pollution problems and has impaired Plaintiff's ability to perform its mission of achieving and maintaining for its members and the public the pollution reductions warranted by the 2008 ozone standard.

34. The Administrator's continuing failure to grant or deny the Petition within a reasonable time causes Plaintiff and its members to suffer the injuries alleged above and prolongs those injuries.

35. For all the foregoing reasons, the acts and omissions complained of herein cause Plaintiff and its members injuries for which they have no adequate remedy at law. Granting the requested relief would redress these injuries.

CLAIM FOR RELIEF

36. The allegations of all foregoing paragraphs are hereby incorporated as if set forth fully herein.

37. The Administrator has a duty under the Clean Air Act and Administrative Procedure Act to conclude action on the Petition within a reasonable time. 42 U.S.C. §7604(a); 5 U.S.C. §555(b).

38. The Administrator has failed to grant or deny the Petition.

39. The Administrator's failure to grant or deny the Petition constitutes agency action unreasonably delayed within the meaning of 42 U.S.C. §7604(a) and 5 U.S.C §706(1).

40. The Administrator's unreasonable delay is continuous and ongoing. Plaintiff is informed and believes that the Administrator's unreasonable delay will continue unless and until the relief requested here is granted.

41. Accordingly, Plaintiff is entitled to an order of this Court compelling the Administrator to grant or deny the Petition forthwith.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

A. Declare that the Administrator's failure to grant or deny the Petition constitutes an unreasonable delay under the Clean Air Act and the Administrative Procedure Act; and enjoin EPA from further delaying a substantive response to the Petition;

B. Order the Administrator to grant in whole, grant in part and deny in remaining part, or deny in whole the Petition within 30 days of the order;

C. Retain jurisdiction of this matter for purposes of enforcing the Court's order;

D. Award Plaintiff its costs of litigation, including reasonable attorney fees; and

E. Grant Plaintiff such other relief as the Court deems just and proper.

DATED: July 28, 2014

Respectfully submitted,

/s/Seth L. Johnson

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Exhibit A

Petition to the Administrator of the U.S. Environmental Protection Agency to Redesignate as Nonattainment 57 Areas with 2012 Design Values Violating the 2008 8-Hour National Ambient Air Quality Standards for Ozone

I. Introduction.

A. 2012 Design Values Reveal That EPA Is Failing to Address Ozone Pollution That Threatens the Health of Millions of Americans.

In July 2013, the U.S. Environmental Protection Agency (“EPA”) released the final 2012 Design Values (“DVs”) for the 2008 8-hour National Ambient Air Quality Standards (“NAAQS”) for ozone.¹ The 2012 DVs revealed that there are many areas in the country where air pollution is at unhealthy levels.

Over 94 million Americans live in metropolitan areas where air quality monitors, located in places designated attainment or unclassifiable for the 2008 NAAQS, register 2012 DVs above 0.075 ppm – a level EPA has determined to be harmful to public health and welfare. To protect the health of these 94 million people, Petitioner hereby requests that the EPA Administrator (“EPA” or “Administrator”) use her authority under Clean Air Act § 107(d)(3) to redesignate the areas listed in Table 1 as nonattainment areas. Separately and severably, Sierra Club requests that EPA set the boundaries of those 57 nonattainment areas as specified in Table 1.

B. Description of Petitioner Organization.

Petitioner the Sierra Club is a national environmental organization with over two million members and activists in all 50 states and the District of Columbia. The Sierra Club’s mission is to protect, explore, and enjoy the planet. To this end, the Sierra Club works to mobilize Americans to fight against air and water pollution and to preserve our nation’s natural beauty. Sierra Club members live and recreate near, and breathe the air in and around, the areas at issue in this petition.

II. EPA Must Redesignate as Nonattainment and Simultaneously Classify the Areas with 2012 Design Values Violating the 2008 NAAQS.

A. EPA Has Legal Authority to Redesignate Areas as Nonattainment.

The Clean Air Act (“Act”) defines a nonattainment area for a pollutant as “any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the

¹ EPA, Design Values 2012: Ozone Detailed Information, http://www.epa.gov/airtrends/pdfs/Ozone_DesignValues_20102012_FINAL_08_20_13.xlsx (July 1, 2013) [hereinafter Ozone Design Values 2010-12].

[NAAQS] for the pollutant.”² When an area meets either prong of this definition, it must be designated nonattainment.³ Additionally, the Act lays out the criteria governing redesignations: air quality data, planning and control considerations, or any other air quality-related consideration.⁴ Redesignation action can be undertaken at any time.⁵

Interested parties such as Sierra Club are free to petition EPA to redesignate areas as nonattainment. Indeed, EPA has previously acted on such petitions to redesignate areas as nonattainment.⁶ And EPA has also previously acted of its own accord to redesignate areas as nonattainment when air quality data reveals that areas violate the NAAQS for various criteria pollutants.⁷

Congress made clear that it intended EPA to redesignate areas based on their air quality, as indicated by their DVs.⁸ Accordingly, EPA must redesignate the areas with 2012 DVs violating the 2008 8-hour ozone NAAQS as nonattainment. As the 2012 DVs for these areas violate the NAAQS, and indeed, in many areas, multiple monitors violate the NAAQS by a great deal, redesignation is quite clearly required.

B. EPA Must Immediately Begin the Redesignation Process for Areas with 2012 DVs Violating the NAAQS.

Of the various statutory factors governing redesignations, air quality data demonstrating violations of the NAAQS is dispositive that EPA must redesignate the areas at issue in this

² Clean Air Act § 107(d)(1)(A)(i).

³ Clean Air Act § 107(d)(3)(A) grants EPA exclusive authority to redesignate areas as nonattainment.

⁴ *Id.* § 107(d)(3). That Congress intended EPA to redesignate areas as nonattainment when they fail to attain the NAAQS is affirmed by the Act’s establishment of procedures for handling such redesignated areas. For example, the Act requires that EPA classify redesignated ozone nonattainment areas simultaneously with their redesignation. *Id.* § 181(b)(1). It further states that “[u]pon its classification, the area [subsequently redesignated to nonattainment for ozone under § 107(d)(3)] shall be subject to the same requirements ... that would have applied had the area been so classified at the time of the [initial designations].” *Id.*

⁵ *See id.* §§ 107(d)(3), 181(b)(1).

⁶ 62 Fed. Reg. 66,578, 66,579 (Dec. 19, 1997) (discussing EPA’s receipt of petitions from environmental organizations and a Congressman, which prompted the rulemaking).

⁷ *E.g.*, 77 Fed. Reg. 32,024, 32,025 (May 31, 2012) (redesignating Pinal County, AZ, nonattainment for PM₁₀); 60 Fed. Reg. 38,726, 38,727 (July 28, 1995) (redesignating Ogden City, UT, nonattainment for PM₁₀); 59 Fed. Reg. 11,193, 11,193 (Mar. 10, 1994) (redesignating Muscatine County, IA, nonattainment for SO₂); 58 Fed. Reg. 67,334, 67,334-35 (Dec. 21, 1993) (final redesignations for a large number of areas); 57 Fed. Reg. 43,846, 43,846 (Sept. 22, 1992) (second proposed redesignations for a large number of areas); 56 Fed. Reg. 16,274, 16,275 (Apr. 22, 1991) (first proposed redesignations for a large number of areas).

⁸ As noted above, § 107(d)(3)(A) provides for EPA to redesignate areas on the basis of air quality data, along with two other factors. Clean Air Act § 107(d)(3)(A). Moreover, § 107(d)(1)(A)(i) makes clear that Congress meant for areas to be designated “nonattainment” if they do not meet (or contribute to ambient air quality in a nearby area that does not meet) the NAAQS.

petition. The simple fact is that ozone pollution in these areas is at levels that EPA has determined to be dangerous to human health and welfare.

Although violations of the NAAQS are dispositive, redesignation is further warranted based on planning and control considerations, which are also particularly relevant when determining the boundaries of the nonattainment areas. Existing pollution controls have not succeeded in reducing ozone to safe levels in the areas in question. Thus, although some of the areas are nonattainment or maintenance for the 1997 NAAQS, the control measures currently in place are plainly insufficient to prevent them from violating the 2008 NAAQS.⁹ Additionally, no other air quality factors can possibly explain such a large number of violations throughout the country – for example, no “exceptional events” could have caused violations at all 103 monitors at issue. If anything, as discussed below, various factors, potentially economic or meteorological, may have caused the 2010 and 2011 DVs to be unusually low.¹⁰

As shown below, 84 counties, listed in Table 1 and currently designated as unclassifiable/attainment for the 2008 ozone NAAQS, have 2012 DVs greater than 0.075 ppm, and are thus in violation of the 2008 8-hour ozone NAAQS.¹¹ These 84 counties are located in 22 states, and have a total of 103 violating air quality monitors.¹²

EPA must redesignate these violating areas as nonattainment because these 84 counties now plainly violate the 2008 8-hour ozone NAAQS.¹³ Sierra Club requests that EPA notify the governors of the states in which such areas are located that available information indicates that redesignating the areas is warranted, pursuant to § 107(d)(3)(A) of the Act. Given the urgency of

⁹ Although the 2012 DVs are dispositive, another air planning and control consideration bolstering the case for redesignation is that Congress was very clear that Subpart 2 laid out the path for areas violating ozone standards and that it intended Subpart 2 to govern well into the future. See *Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 485 (2001); Clean Air Act § 181(b)(1).

¹⁰ The 2010 and 2011 DVs include data from the core years of the 2008 recession. Additionally, in 2009 (data from which was included in the 2010 and 2011 DVs, but not the 2012 DVs), meteorological conditions were unfavorable to ozone formation in the Northeast. See EPA, *Response to Comments on Implementation of the 2008 National Air Quality Standards for Ozone: Nonattainment Area Classifications Approach, Attainment Deadlines, and Revocation of the 1997 Ozone Standards for Transportation Conformity Purposes* 18 (EPA-HQ-OAR-2010-0885-0065, Apr. 2012); cf. Shao-Hang Chu, *Initial Analysis of Meteorologically Adjusted Sulfate Trend and Implication of the Recent Economic Slowdown* 31-32 (Dec. 2011), available at http://www.epa.gov/airtrends/specialstudies/ChuSulfatePresentation_2011AGUMeeting.pdf (concluding that lower power demand during the 2008-09 economic slowdown was a major factor responsible for accelerated SO₂ emissions decline). Moreover, current science indicates that temperatures experienced during 2012 will be common in the future due to climate change. If we do not reduce greenhouse emissions rapidly and substantially, the hottest summer of the 20th century is expected to occur every other year, or even more frequently, contributing to increased ozone levels. See, e.g., Noah S. Diffenbaugh & Christopher B. Field, *Changes in Ecologically Critical Terrestrial Climate Conditions*, 341 *Science* 486, 488 (2013).

¹¹ See Ozone Design Values 2010-2012, *supra* note 1, tbl.2.

¹² See *id.*

¹³ The counties are designated unclassifiable/attainment for the 2008 8-hour ozone NAAQS. 77 Fed. Reg. 30,088, 30,095-157 (May 21, 2012). The 2012 DVs for the counties are greater than the 0.075 ppm threshold. See Ozone Design Values 2010-2012, *supra* note 1, tbl.2.

protecting the health of millions of Americans living in areas with ambient ozone concentrations above the level EPA has identified as adequate to protect human health, Sierra Club requests that EPA provide such notice to the governors within 30 days of receiving this petition. After making such notification, EPA must follow the statutory timeframe for state comments and act at least as quickly as the statutory timeframe for responding to state comments on the proposed redesignation, as given in § 107(d)(3)(B)-(C) of the Act. Further, EPA must simultaneously classify all areas listed in Table 1 upon redesignating them because the Act requires that EPA simultaneously classify redesignated areas upon redesignation.¹⁴

As a separate, severable part of this petition, Sierra Club also requests that EPA redesignate the areas as nonattainment with boundaries to be determined in a manner consistent with EPA policies.¹⁵ In this regard, Sierra Club notes that EPA policy is to designate as nonattainment the entire Combined Statistical Area (“CSA”) or Core Based Statistical Area (“CBSA”) where a violation has been monitored. CBSAs include metropolitan and micropolitan statistical areas, which can be combined into CSAs.¹⁶ CSA and CBSA boundaries are determined by the Office of Management and Budget (“OMB”).¹⁷ The 2008 NAAQS implementation guidance document directs that CSAs (or CBSAs, where applicable) “associated with the violating monitor(s) serve as the starting point or “presumptive” boundary for evaluating the geographic boundaries of an ozone nonattainment area.”¹⁸ The Guidance Document cites an earlier memorandum explaining why: “In reducing ozone concentrations above the NAAQS, EPA believes it is best to consider controls on sources over a larger area due to the pervasive nature of ground level ozone and transport of ozone and its precursors.”¹⁹ Thus, as a severable element of this petition, Sierra Club requests that EPA establish the boundaries proposed in Table 1 below, which specify that EPA should redesignate as nonattainment the entire CSA or CBSA where a violating monitor is located, with a few exceptions as noted in the Table.²⁰

¹⁴ Clean Air Act § 181(b)(1).

¹⁵ See Memorandum from Robert J. Meyers, Principal Deputy Assistant Administrator, to Regional Administrators, Regions I-X at 3-4 (Dec. 4, 2008) (providing guidance on determining nonattainment area boundaries).

¹⁶ 65 Fed. Reg. 82,228, 82,228, 82,237 (Dec. 27, 2000).

¹⁷ OMB, OMB Bulletin No. 13-01, *Revised Delineations of Metropolitan Statistical Areas, Micropolitan Statistical Areas, and Combined Statistical Areas, and Guidance on Uses of the Delineations of These Areas* (Feb. 28, 2013), available at <http://www.whitehouse.gov/sites/default/files/omb/bulletins/2013/b13-01.pdf>.

¹⁸ Meyers memorandum, *supra* note 15, at 3.

¹⁹ Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, to Air Directors, Regions I-X attach. 3 (Mar. 28, 2000). This memorandum refers to C/MSAs, a term that OMB replaced with “CSA” in 2000. See 65 Fed. Reg. at 82,228.

²⁰ This element of the petition is severable. Thus, if EPA chooses to deny the petition with respect to one or more of the proposed boundaries, EPA must separately decide whether to grant or deny the petition with respect to the request that it redesignate the 57 areas as nonattainment.

Table 1: Areas Sierra Club Requests That EPA Redesignate as Nonattainment²¹

State	Counties with Violating Monitor(s) and DV at Highest Violating Monitor	Proposed Boundary
Alabama	Jefferson County: 0.080 ppm	Entire Birmingham-Hoover-Talladega CSA
Arizona	Pinal County (part): 0.076 ppm Yuma County: 0.077 ppm	Add eastern Pinal County to existing Phoenix-Mesa nonattainment area Entire Yuma CBSA
Arkansas	Pulaski County: 0.077 ppm	Entire Little Rock-North Little Rock CSA
Delaware	Kent County: 0.078 ppm	Add Kent County to existing Philadelphia-Wilmington-Atlantic City nonattainment area ²²
Illinois	Hamilton County: 0.078 ppm Jersey County: 0.079 ppm	Redesignate all of Hamilton County as nonattainment ²³ Add Jersey County & Lincoln County, MO, to existing St. Louis-St. Charles-Farmington nonattainment area ²⁴
Indiana	Clark County: 0.081 ppm Floyd County: 0.079 ppm Greene County: 0.078 ppm La Porte County: 0.083 ppm	Entire Louisville/Jefferson County-Elizabethtown-Madison CSA ²⁵ Redesignate all of Greene County as nonattainment Add La Porte County to existing Chicago-Naperville nonattainment area
Kansas	Johnson County: 0.076 ppm Sedgwick County: 0.077 ppm Sumner County: 0.077 ppm	Entire Kansas City-Overland Park-Kansas City CSA ²⁶ Entire Wichita-Arkansas City-Winfield CSA

²¹ Ozone Design Values 2010-2012, *supra* note 1, tbls.1b, 2, 4; OMB, *supra* note 17 (providing boundaries of CSAs and CBSAs).

²² Kent County, DE, is located between New Castle County, DE, which is in the Philadelphia-Wilmington-Atlantic City nonattainment area, and Sussex County, DE, which is in its own Seaford nonattainment area. Because Kent County, DE, is part of the Philadelphia-Wilmington-Atlantic City nonattainment area for the 1997 ozone NAAQS, and is in the Philadelphia-Reading-Camden CSA, Sierra Club requests that it be added to the Philadelphia-Wilmington-Atlantic City nonattainment area for the 2008 NAAQS. Alternatively, EPA could redesignate the entire state of Delaware (New Castle, Kent, and Sussex Counties) as a single nonattainment area, which was one of the options that Delaware itself proposed during the initial 2008 ozone NAAQS designation cycle. *See* EPA Region 3, *Delaware Area Designations for the 2008 Ozone National Ambient Air Quality Standards 1* (2011), available at http://www.epa.gov/glo/designations/2008standards/rec/eparesp/R3_DE_tsd.pdf.

²³ Although Hamilton County is not located in a CSA or CBSA, the logic expressed in EPA's designation guidance documents suggests that redesignating the entire county as nonattainment will best capture all sources contributing to nonattainment in the area. *See* Meyers memorandum, *supra* note 15, at 3; Seitz memorandum, *supra* note 19, attach. 3. The same holds for the other counties that are not in or close to a CSA or CBSA: Greene County, IN; and Perry County, MO.

²⁴ Jersey County, IL, is in the same CSA as Lincoln County, MO, which itself violates the NAAQS.

²⁵ This is the same CSA as for Jefferson and Oldham Counties, KY, which themselves violate the NAAQS.

²⁶ This is the same CSA as for Clay and Clinton Counties, MO, which themselves violate the NAAQS.

Kentucky	Daviess County: 0.079 ppm Hancock County: 0.076 ppm	Entire Owensboro CBSA
	Henderson County: 0.079 ppm	Entire Evansville (IN) CBSA ²⁷
	Jefferson County: 0.085 ppm Oldham County: 0.086 ppm	Entire Louisville/Jefferson County-Elizabethtown-Madison CSA ²⁸
	McCracken County: 0.077 ppm	Entire Paducah-Mayfield CSA ²⁹
Louisiana	Bossier Parish: 0.078 ppm Caddo Parish: 0.076 ppm	Entire Shreveport-Bossier City CBSA
	Pointe Coupee Parish: 0.077 ppm	Add Pointe Coupee Parish to existing Baton Rouge nonattainment area
Maryland	Kent County: 0.082 ppm	Add Kent County to existing Baltimore nonattainment area. ³⁰
Michigan	Allegan County: 0.084 ppm Muskegon County: 0.082 ppm Ottawa County: 0.078 ppm	Entire Grand Rapids-Wyoming-Muskegon CSA
	Berrien County: 0.082 ppm Cass County: 0.078 ppm	Entire South Bend-Elkhart-Mishawaka CSA ³¹
	Genesee County: 0.076 ppm Lenawee County: 0.076 ppm Macomb County: 0.079 ppm Oakland County: 0.078 ppm St. Clair County: 0.077 ppm Washtenaw County: 0.076 ppm Wayne County: 0.081 ppm	Entire Detroit-Warren-Ann Arbor CSA
Missouri	Clay County: 0.080 ppm	Entire Kansas City-Overland Park-Kansas City CSA ³²

²⁷ This CBSA includes Posey, Vanderburgh, and Warrick Counties, IN.

²⁸ This is the same CSA as for Clark and Floyd Counties, IN, which themselves violate the NAAQS.

²⁹ This CSA includes Massac County, IL.

³⁰ OMB does not include Kent County, MD, in the Washington-Baltimore-Arlington CSA. But EPA has historically grouped Kent as a unit with Queen Anne's County, which is part of the Washington-Baltimore-Arlington CSA, and the two counties were designated nonattainment for the 1997 ozone NAAQS. Further, although Kent County, MD, is located adjacent to Cecil County, MD, and New Castle County, DE, which are in the Philadelphia-Wilmington-Atlantic City nonattainment area, and is not contiguous with the Baltimore nonattainment area, it is just across the Chesapeake from Baltimore, and the Chesapeake Bay Bridge connects it to the Baltimore metropolitan area. Further, Maryland initially proposed that both Kent & Queen Anne's Counties be designated as an "Upper Eastern Shore" nonattainment area, although it later withdrew the proposal upon seeing the area's unusually low 2010 DV, and EPA chose not to designate the counties as nonattainment, also based on the unusually low 2010 DV. *See* Letter from Martin O'Malley, Governor of Maryland, to William T. Wisniewski, Acting EPA Region 3 Administrator (Mar. 10, 2009), *available at* http://www.epa.gov/glo/designations/2008standards/rec/letters/03_MD_rec.pdf (proposing to designate Kent & Queen Anne's Counties as an "Upper Eastern Shore" nonattainment area); Letter from Martin O'Malley, Governor of Maryland, to Shawn M. Garvin, EPA Region 3 Administrator (Dec. 1, 2011), *available at* http://www.epa.gov/glo/designations/2008standards/rec/letters/03_MD_rec2.pdf (withdrawing proposal); Letter from Shawn M. Garvin, EPA Region 3 Administrator to Martin O'Malley, Governor of Maryland (Dec. 9, 2011), *available at* http://www.epa.gov/ozonedesignations/2008standards/rec/eparesp/R3_MD_resp.pdf (rejecting Maryland's initial proposal to designate Kent and Queen Anne's Counties as nonattainment).

³¹ This CSA includes Elkhart, Marshall, and St. Joseph Counties, IN.

³² This is the same CSA as for Johnson County, KS, which itself violates the NAAQS.

	Clinton County: 0.080 ppm	
	Jasper County: 0.078 ppm	Entire Joplin-Miami CSA ³³
	Lincoln County: 0.080 ppm	Add Lincoln County & Jersey County, IL, to existing St. Louis-St. Charles-Farmington nonattainment area ³⁴
	Perry County: 0.077 ppm	Redesignate all of Perry County as nonattainment
Nevada	Clark County: 0.076 ppm	Entire Las Vegas-Henderson CSA ³⁵
North Carolina	Forsyth County: 0.078 ppm Guilford County: 0.076 ppm	Entire Greensboro-Winston-Salem-High Point CSA
Ohio	Clark County: 0.076 ppm Montgomery County: 0.078 ppm	Entire Dayton-Springfield-Sidney CSA
	Lucas County: 0.076 ppm	Entire Toledo-Port Clinton CSA
	Stark County: 0.079 ppm	Add Stark County to existing Cleveland-Akron-Lorain nonattainment area
	Trumbull County: 0.079 ppm	Entire Youngstown-Warren CSA ³⁶
Oklahoma	Cherokee County: 0.076 ppm Creek County: 0.078 ppm Tulsa County: 0.080 ppm	Entire Tulsa-Muskogee-Bartlesville CSA, Adair County, & Mayes County, OK ³⁷
	Canadian County: 0.076 ppm Cleveland County: 0.076 ppm Oklahoma County: 0.079 ppm	Entire Oklahoma City-Shawnee CSA & Caddo County, OK ³⁸
	Adair County: 0.076 ppm	Include with Tulsa-Muskogee-Bartlesville CSA (as noted above)
	Caddo County: 0.077 ppm	Include with Oklahoma City-Shawnee CSA (as noted above)
	Mayes County: 0.078 ppm	Include with Tulsa-Muskogee-Bartlesville CSA (as noted above)
	Ottawa County: 0.076 ppm	Entire Joplin-Miami CSA ³⁹

³³ This is the same CSA as for Ottawa County, OK, which itself violates the NAAQS.

³⁴ Lincoln County, MO, is in the same CSA as Jersey County, IL, which itself violates the NAAQS.

³⁵ This CSA includes Mohave County, AZ.

³⁶ This is the same CSA as for Mercer County, PA, which itself violates the NAAQS.

³⁷ Although Mayes County is located outside the Tulsa-Muskogee-Bartlesville CSA, it is immediately upwind of parts of the area, and emissions in Mayes County likely contribute to nonattainment in Tulsa. *See* Attachment C (map of Oklahoma and the location of Mayes County relative to the Tulsa-Muskogee-Bartlesville CSA; original map source, http://geo.ou.edu/images/statewells_big.jpg); *see also* Oklahoma Climatological Survey, *Climate of Oklahoma*, http://climate.ok.gov/index.php/site/page/climate_of_oklahoma (last visited Aug. 7, 2013) (describing prevailing wind direction in Oklahoma); Letter from Brad Henry, Governor of Oklahoma, to Lawrence E. Starfield, EPA Region 6 Acting Administrator (Mar. 9, 2009), *available at* http://www.epa.gov/glo/designations/2008standards/rec/letters/06_OK_rec.pdf (noting NAAQS violations in the Tulsa area).

³⁸ Although Caddo County is located outside the Oklahoma City-Shawnee CSA, it is immediately west of the Oklahoma City area, and its substantial oil and gas operations likely contribute to ozone nonattainment in Oklahoma City. *See* Attachment C. Oklahoma acknowledged NAAQS violations in the Oklahoma City area in its initial designation proposal, but EPA did not designate the area as nonattainment. *See* Letter from Henry to Starfield, *supra* note 37.

³⁹ This is the same CSA as for Jasper County, MO, which itself violates the NAAQS.

Pennsylvania	Dauphin County: 0.077 ppm York County: 0.077 ppm	Entire Harrisburg-York-Lebanon CSA
	Erie County: 0.076 ppm	Entire Erie-Meadville CSA
	Indiana County: 0.079 ppm	Add Indiana County to existing Pittsburgh-Beaver Valley nonattainment area ⁴⁰
	Mercer County: 0.079 ppm	Entire Youngstown-Warren CSA ⁴¹
Rhode Island	Washington County: 0.078 ppm	Entire Providence-Warwick CBSA ⁴²
Tennessee	Hamilton County: 0.076 ppm	Entire Chattanooga-Cleveland-Dalton CSA ⁴³
	Jefferson County: 0.078 ppm Sevier County: 0.076 ppm	Add Jefferson & Sevier Counties to existing Knoxville nonattainment area
	Sumner County: 0.079 ppm	Entire Nashville-Davidson-Murfreesboro CSA
Texas	Bexar County: 0.080 ppm	Entire San Antonio-New Braunfels CBSA
	Gregg County: 0.079 ppm	Entire Longview-Marshall CSA
	Hood County: 0.077 ppm	Add Hood County to existing Dallas-Fort Worth nonattainment area
	Jefferson County: 0.080 ppm	Entire Beaumont-Port Arthur CBSA
Virginia	Charles City County: 0.079 ppm Hanover County: 0.076 ppm Henrico County: 0.078 ppm	Entire Richmond CBSA
	Hampton City: 0.076 ppm	Entire Virginia Beach-Norfolk CSA ⁴⁴
	Stafford County: 0.076 ppm	Add Stafford County, VA, to existing Washington nonattainment area

⁴⁰ Indiana County is part of the Clearfield & Indiana Counties, PA, maintenance area for the 1997 ozone NAAQS. But only monitors in Indiana County now violate the NAAQS. Further, Indiana County is part of the Pittsburgh-New Castle-Weirton CSA, and it is adjacent to the existing Pittsburgh-Beaver Valley nonattainment area for the 2008 NAAQS. Thus, Sierra Club requests to add it to the Pittsburgh-Beaver Valley nonattainment area.

⁴¹ This is the same CSA as for Trumbull County, OH, which itself violates the NAAQS.

⁴² EPA supplied two 2012 DVs indicating the Boston-Worcester-Providence CSA should be designated nonattainment. First, it supplied data from a monitor in Washington County, RI. Second, it provided a DV for the "Boston-Lawrence-Worcester (E Mass)" maintenance area for the 1997 NAAQS. Both values (0.078 and 0.079 ppm, respectively), violate the 2008 NAAQS. But no monitors within the CSA outside of Rhode Island had 2012 DVs above 0.075 ppm. Accordingly, Sierra Club requests that EPA only redesignate as nonattainment the Providence-Warwick CBSA, which covers most of the state of Rhode Island and a small part of Massachusetts. Notably, both Rhode Island and Massachusetts initially proposed to designate all of the Providence-Warwick CBSA as nonattainment. *See* Letter from Laurie Burt, Commissioner, Massachusetts Department of Environmental Protection, to Ira W. Leighton, EPA Region 1 Acting Administrator at 1 (Mar. 11, 2009), *available at* http://www.epa.gov/glo/designations/2008standards/rec/letters/01_MA_rec.pdf; Letter from Donald L. Carcieri, Governor of Rhode Island, to Ira W. Leighton, EPA Region 1 Acting Administrator at 1-2 (Mar. 12, 2009), *available at* http://www.epa.gov/glo/designations/2008standards/rec/letters/01_RI_rec.pdf.

⁴³ This CSA includes Jackson County, AL; and Catoosa, Dade, Murray, Walker, and Whitfield Counties, GA.

⁴⁴ This CSA includes Currituck and Gates Counties, NC.

Wisconsin	Kewaunee County: 0.078 ppm	Entire Green Bay-Shawano CSA and Door & Manitowoc Counties ⁴⁵
	Door County: 0.078 ppm	Include with Green Bay-Shawano CSA & Manitowoc County (as noted above)
	Manitowoc County: 0.080 ppm	Include with Green Bay-Shawano CSA & Door County (as noted above)
	Milwaukee County: 0.082 ppm Ozaukee County: 0.080 ppm Racine County: 0.081 ppm	Entire Milwaukee-Racine-Waukesha CSA

C. EPA Based Its Initial Designations on Abnormally Low Ozone Years.

Because the 2012 DV data show that the areas listed in Table 1 are violating the ozone NAAQS, those areas must be redesignated nonattainment, regardless of whether those areas may have previously met the standard. Even if prior compliance were relevant, we note EPA issued most of the designations for the 2008 NAAQS in May 2012.⁴⁶ It generally used 2010 DVs for the designations, but used 2011 DVs if doing so allowed an attainment designation or lower classification.⁴⁷

Both the 2010 and 2011 DVs were abnormally low. Among the 2012 DVs EPA released that exceed 0.075 ppm and are located in areas designated attainment or unclassifiable for the 2008 NAAQS, nearly 99% were below their 10-year mean in 2010.⁴⁸ Similarly, nearly 93% were

⁴⁵ Door, Manitowoc, and Kewaunee Counties form an unbroken line of counties and have 2012 DVs violating the 2008 NAAQS by relatively high magnitudes. Although they are not part of the same CSA (Kewaunee is part of the Green Bay-Shawano CSA, but the others are not), they share several common attributes beyond geography. Most importantly, although relatively sparsely populated, their populations swell during the summer ozone season. For example, Door County has a year-round population of only about 28,000, but attracts 2 million tourists a year and has a summer population of 250,000. *See* Door County Wisconsin, *Door County Fact Sheet*, <http://www.doorcounty.com/media/door-county-fact-sheet> (last visited Nov. 13, 2013); *Lands of Wisconsin.com, County Data for Door County, Wisconsin*, <http://www.lands of wisconsin.com/County-Data-For-Door-County-Wisconsin> (last visited Nov. 13, 2013). Notably, one of the options that Wisconsin initially proposed for the 2008 ozone NAAQS designations was to designate Door, Manitowoc, and Kewaunee counties, along with neighboring Brown County, as a single nonattainment area. *See* Wisconsin Dep't of Natural Res., *2008 Daily Ozone Standard Nonattainment Designation Options, Technical Support Document 2* (Feb. 27, 2009), available at http://www.epa.gov/glo/designations/2008standards/rec/letters/05_WI_rec.pdf. Designating all three counties together is important because prevailing winds blow pollution from the Green Bay area (Brown, Manitowoc, and Kewaunee County) northwest to Door County. *See id.* at 40. Further, taking an area-wide approach to the ozone problems in eastern Wisconsin is critical because all eight Wisconsin counties on the western shore of Lake Michigan (Door, Kewaunee, Manitowoc, Sheboygan, Ozaukee, Milwaukee, Racine, and Kenosha) are either already designated nonattainment or have 2012 DVs violating the 2008 NAAQS.

⁴⁶ 77 Fed. Reg. 30,088 (May 21, 2012). EPA issued the designations for the Chicago Metro area in a separate rule a month later. 77 Fed. Reg. 34,221 (June 11, 2012).

⁴⁷ *See* EPA, *8-Hour Ozone (2008 Standard) Design Value Notes*, www.epa.gov/airquality/greenbook/dv_ozone2008_notes.html (last updated July 31, 2013).

⁴⁸ *See* Attachment B. Note that not all monitors had 10 years of data available. Some monitors appear to have been discontinued at various points, new monitors were added, and some monitors are missing one or more years of data. Note also that these figures include data from 103 monitors and an additional 1 DV that EPA calculated for areas that are maintenance for the 1997 NAAQS based on the aggregate monitors in the area.

below their 10-year mean in 2011.⁴⁹ Indeed, over 91% experienced their lowest recorded DVs for the 10-year period in either 2010 or 2011 (73% in 2010 and 30% in 2011).⁵⁰

Given the abnormally low DVs that EPA used to support its designations, it is hardly surprising that a total of 103 monitors, located in areas designated attainment or unclassifiable for the 2008 NAAQS, had 2012 DVs above 0.075 ppm.⁵¹ EPA has already admitted to the Supreme Court that the 2012 DVs are cause for concern, stating that they “identif[ied] numerous areas with ozone levels exceeding the revised [2008] 8-hour ozone NAAQS, and show that air quality has deteriorated in many areas.”⁵²

But although higher than the abnormally low 2010 and 2011 DVs, the 2012 DVs are not themselves abnormally high. Among the 2012 DVs that exceed 0.075 ppm and are located in areas designated attainment or unclassifiable for the 2008 NAAQS, nearly 52% were at or *below* their 10-year mean.⁵³ None were outliers based on data from the past 10 years.⁵⁴

Thus, EPA based the current 2008 8-hour ozone NAAQS designations on unusually low-pollution years, leaving many areas with historic and ongoing ozone problems without adequate nonattainment controls. The 2012 DVs, although not unusually high themselves, nevertheless reveal that the 2010 and 2011 DVs were anomalies, and areas nationwide designated attainment or unclassifiable now register DVs violating the NAAQS. EPA must redesignate the areas listed above in order to provide effective and legally mandated health protections to millions of Americans.

III. SUMMARY OF REQUESTS.

For the reasons discussed above, Sierra Club hereby requests the following:

1. That, pursuant to its authority under Clean Air Act § 107(d)(3)(A), EPA redesignate as nonattainment the 57 areas currently designated attainment/unclassifiable that have 2012 DVs violating the 2008 8-hour ozone NAAQS (listed in Table 1 and Attachment A) by informing the governors of the states where the areas are located that available information indicates that redesignation is warranted within 30 days of receiving this petition; and that

⁴⁹ *Id.* 2010 and 2011 DVs below the 10-year mean are highlighted in red.

⁵⁰ *Id.* Note that 9 monitors had a tie for lowest DV in the 10-year period between 2010 and 2011.

⁵¹ See Attachments A, B (providing a full list of the 57 areas and the Design Values registered by their monitors).

⁵² Reply in Support of Petition for Writ of Certiorari 3-4, *EPA v. EME Homer City Generation, L.P.*, No. 12-1182 (U.S. June 2013).

⁵³ See Attachment B. 2012 DVs greater than the 10-year mean are highlighted in green.

⁵⁴ *Id.* Outliers (values two standard deviations above or below the mean) are in boldface.

EPA simultaneously promulgate such redesignations and classify the areas at least as quickly as the timeline established by Clean Air Act § 107(d)(3); and

2. As a severable request, that EPA establish the boundaries of those 57 nonattainment areas as specified in Table 1 and in Attachment A.

Given Congress's directive to follow precise schedules to remedy ozone nonattainment subsequent to designations and redesignations, which are tied to the date of nonattainment classification,⁵⁵ EPA must take expeditious action on this petition. Accordingly, Sierra Club calls on EPA to grant this petition within 30 days of receiving it.

Sincerely,

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On behalf of the Sierra Club

DATED: November 14, 2013

Cc: Janet McCabe, Acting Assistant Administrator, Office of Air and Radiation
Steve Page, Director, Office of Air Quality Planning and Standards

⁵⁵ See, e.g., Clean Air Act §§ 107(d)(3)(B)-(C), 181(b)(1).

Areas Designated Attainment/Unclassifiable with 2008 8-hr Ozone NAAQS That Have 2012 Design Values Violating the 2008 Ozone NAAQS						
<u>State(s) with violating monitor(s) and other state(s) relevant to boundary</u>	<u>County or counties with violating monitor(s) that are located within current attainment area & highest 2012 DV¹</u>	<u>CSA (if applicable)</u>	<u>CBSA(s) (if applicable)</u>	<u>Proposed Boundary</u>	<u>County or counties' "Designation Status" for 1997 NAAQS²</u>	
Alabama	Jefferson County: 0.080 ppm	Birmingham-Hoover-Talladega	Birmingham-Hoover	Birmingham-Hoover-Talladega CSA	Maintenance	
Arizona	Pinal County (part): 0.076 ppm	n/a	Phoenix-Mesa-Scottsdale	Eastern Pinal County	Attainment	
Arizona	Yuma County: 0.077 ppm	n/a	Yuma	Yuma CBSA	Attainment	
Arkansas	Pulaski County: 0.077 ppm	Little Rock-North Little Rock	Little Rock-North Little Rock-Conway	Little Rock-North Little Rock CSA	Attainment	
Delaware	Kent County: 0.078 ppm	Philadelphia-Reading-Camden	Dover, DE	Dover, DE	Nonattainment	
Illinois	Hamilton County: 0.078 ppm	n/a	n/a	Hamilton County	Attainment	
Illinois	Jersey County: 0.079 ppm	St. Louis-St. Charles-Farmington	St. Louis	Jersey County	Maintenance	
Indiana, Kentucky	Clark County, IN: 0.081 ppm Floyd County, IN: 0.079 ppm	Louisville/Jefferson County-Elizabethtown-Madison	Louisville/Jefferson County	Louisville/Jefferson County-Elizabethtown-Madison, CSA	Maintenance	
Indiana	Greene County: 0.078 ppm	n/a	n/a	Greene County	Maintenance	
Indiana	La Porte County: 0.083 ppm	Chicago-Naperville	Michigan City-La Porte	La Porte County	Maintenance	
Kansas, Missouri	Johnson County, KS: 0.076 ppm	Kansas City-Overland Park-Kansas City	Kansas City	Kansas City-Overland Park-Kansas City, CSA	Attainment	
Kansas	Sedwick County: 0.077 ppm Sumner County: 0.077 ppm	Wichita-Arkansas City-Winfield	Wichita	Wichita-Arkansas City-Winfield, CSA	Attainment	
Kentucky	Daviess County: 0.079 ppm Hancock County: 0.076 ppm	n/a	Owensboro	Owensboro CBSA	Attainment	
Kentucky, Indiana	Henderson County, KY: 0.079 ppm	n/a	Evansville	Evansville CBSA	Attainment	

Attachment A

<u>Highest 2010-2012 Design Value (ppm)¹</u>	<u>Population of CSA (or CBSA or County if not in CSA or CBSA) [2012 Estimate]</u>	<u>Parts of CSA or CBSA already designated as nonattainment with 2008 NAAQS</u>	<u>Requested Action</u>	<u>Other Notes</u>
0.080	1,309,818		Redesignate entire Birmingham-Hoover-Talladega CSA as nonattainment	
0.076	4,329,534	Parts of Maricopa and Pinal Counties	Add eastern Pinal County, AZ to existing Phoenix-Mesa Nonattainment Area	West-central Pinal County is already designated nonattainment.
0.077	200,022		Redesignate entire Yuma CBSA as nonattainment.	
0.077	893,610		Redesignate entire Little Rock-North Little Rock CSA as nonattainment.	
0.078	7,129,428	Rest of Delaware already in nonattainment	Add Kent County, DE, to existing Philadelphia-Wilmington-Atlantic City Nonattainment Area	Dover is located between the two other counties in Delaware, which are both designated nonattainment. All three counties are designated nonattainment for the 1997 NAAQS as part of the Philadelphia nonattainment area.
0.078	8,370		Redesignate entire county as nonattainment.	
0.079	2,900,605	Madison, Monroe, St. Clair Counties, IL; Franklin, Jefferson, St. Charles, St. Louis Counties, MO	Add Jersey County, IL, & Lincoln County, MO, to existing St. Louis-St. Charles-Farmington Nonattainment Area	
0.081	1,478,637		Redesignate entire Louisville/Jefferson County-Elizabethtown-Madison CSA as nonattainment	
0.078	32,940		Redesignate entire county as nonattainment	
0.083	9,899,902	Cook, Du Page, Grundy, Kane, Kendall, Lake, McHenry, and Will Counties, IL; Lake & Porter Counties, IN; Kenosha County, WI	Add La Porte County, IN, to existing Chicago-Naperville Nonattainment Area	
0.076	2,376,631		Redesignate entire Kansas City-Overland Park-Kansas City CSA as nonattainment	
0.077	672,393		Redesignate entire Wichita-Arkansas City-Winfield CSA as nonattainment	
0.079	116,030		Redesignate entire Owensboro CSA as nonattainment	
0.079	313,433		Redesignate entire Evansville CBSA as nonattainment.	

Attachment A

<u>State(s) with violating monitor(s) and other state(s) relevant to boundary</u>	<u>County or counties with violating monitor(s) that are located within current attainment area & highest 2012 DV¹</u>	<u>CSA (if applicable)</u>	<u>CBSA(s) (if applicable)</u>	<u>Proposed Boundary</u>	<u>County or counties' "Designation Status" for 1997 NAAQS²</u>
Kentucky, Indiana	Jefferson County, KY: 0.085 ppm Oldham County, KY: 0.086 ppm	Louisville/Jefferson County-Elizabethtown-Madison	Louisville/Jefferson County	Louisville/Jefferson County-Elizabethtown-Madison, CSA	Maintenance
Kentucky, Illinois	McCracken County, KY: 0.077 ppm	Paducah-Mayfield	Paducah	Paducah-Mayfield CSA	Attainment
Louisiana	Bossier Parish: 0.078 ppm Caddo Parish: 0.076 ppm	n/a	Shreveport-Bossier City	Shreveport-Bossier City CBSA	Attainment
Louisiana	Pointe Coupee Parish: 0.077 ppm	n/a	Baton Rouge	Pointe Coupee Parish	Attainment
Maryland	Kent County: 0.082 ppm	n/a	n/a	Kent County	Maintenance
Michigan	Allegan County: 0.084 ppm Muskegon County: 0.082 ppm Ottawa County: 0.078 ppm	Grand Rapids-Wyoming-Muskegon	Grand Rapids-Wyoming; Holland; Muskegon	Grand Rapids-Wyoming-Muskegon, CSA	Maintenance
Michigan, Indiana	Berrien County, MI: 0.082 ppm Cass County, MI: 0.078 ppm	South Bend-Elkhart-Mishawaka	Niles-Benton Harbor; South Bend-Mishawaka	South Bend-Elkhart-Mishawaka, CSA	Maintenance
Michigan	Genesee County: 0.076 ppm Lenawee County: 0.076 ppm Macomb County: 0.079 ppm Oakland County: 0.078 ppm St. Clair County: 0.077 ppm Washtenaw County: 0.076 ppm Wayne County: 0.081 ppm	Detroit-Warren-Ann Arbor	Adrian; Ann Arbor; Detroit-Warren-DeARBorn; Flint	Detroit-Warren-Ann Arbor CSA	Maintenance

Attachment A

Highest 2010-2012 Design Value (ppm) ¹	Population of CSA (or CBSA or County if not in CSA or CBSA) [2012 Estimate]	Parts of CSA or CBSA already designated as nonattainment with 2008 NAAQS	Requested Action	Other Notes
0.086	See above		Redesignate entire Louisville/Jefferson County-Elizabethtown-Madison CSA as nonattainment	
0.077	136,083		Redesignate entire Paducah-Mayfield CSA as nonattainment	
0.078	447,193		Redesignate entire Shreveport-Bossier City CBSA as nonattainment	
0.077	815,298	Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes	Add Point Coupee Parish to existing Baton Rouge nonattainment area	
0.082	20,204	Baltimore area: Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties, MD; Philadelphia area: Cecil County, MD, New Castle County, DE	Add Kent County, MD, to existing Baltimore Nonattainment Area	Although Kent County, MD, is not in any CSA or CBSA, EPA has historically grouped it with Queen Anne's County, MD. The two counties are a maintenance area for the 1997 ozone NAAQS. Kent County is across the Chesapeake from the Baltimore nonattainment area (2008 NAAQS). Kent County, MD, is south of Cecil County, MD, and west of New Castle County, DE, which are part of the Philadelphia nonattainment area (2008 NAAQS). Kent County, MD, is also west of Kent County, DE, which is currently designated attainment but has a 2012 DV above 0.075 ppm.
0.084	1,395,128		Redesignate entire Grand Rapids-Wyoming-Muskegon CSA as nonattainment	Violating monitors are located in three of the CBSAs that combine to form the Grand Rapids-Wyoming-Muskegon CSA: Holland (Allegan County); Muskegon (Muskegon County), & Grand Rapids-Wyoming (Ottawa County). For the 1997 NAAQS, they are listed in three separate areas as maintenance areas.
0.082	721,296		Redesignate entire Elkhart-South Bend-Mishawaka CSA as nonattainment	The counties are listed separately as maintenance for 1997 NAAQS.
0.081	5,311,449		Redesignate entire Detroit-Warren-Ann Arbor CSA as nonattainment	Ann Arbor and the rest of the Detroit area are located in four separate CBSAs, but in the same Detroit-Warren-Ann Arbor CSA. The counties with violating monitors are listed separately as maintenance for the 1997 NAAQS as Detroit-Ann Arbor and Flint (Genesee County).

Attachment A

<u>State(s) with violating monitor(s) and other state(s) relevant to boundary</u>	<u>County or counties with violating monitor(s) that are located within current attainment area & highest 2012 DV¹</u>	<u>CSA (if applicable)</u>	<u>CBSA(s) (if applicable)</u>	<u>Proposed Boundary</u>	<u>County or counties' "Designation Status" for 1997 NAAQS²</u>
Missouri, Kansas	Clay County, MO: 0.080 ppm Clinton County, MO: 0.080 ppm	Kansas City-Overland Park-Kansas City	Kansas City	Kansas City-Overland Park-Kansas City, CSA	Attainment
Missouri, Oklahoma	Jasper County, MO: 0.078 ppm	Joplin-Miami	Joplin, MO	Joplin-Miami CSA	Attainment
Missouri	Lincoln County: 0.080 ppm	St. Louis-St. Charles-Farmington	St. Louis	Lincoln County	Attainment
Missouri	Perry County: 0.077 ppm	n/a	n/a	Perry County	Attainment
Nevada, Arizona	Clark County, NV: 0.076 ppm	Las Vegas-Henderson	Las Vegas-Henderson-Paradise	Las Vegas-Henderson CSA	Maintenance
North Carolina	Forsyth County: 0.078 ppm Guilford County: 0.076 ppm	Greensboro-Winston-Salem-High Point	Greensboro-High Point; Winston-Salem	Greensboro-Winston-Salem-High Point CSA	Attainment
Ohio	Clark County: 0.076 ppm Montgomery County: 0.078 ppm	Dayton-Springfield-Sidney	Dayton; Springfield	Dayton-Springfield-Sidney CSA	Maintenance
Ohio	Lucas County: 0.076 ppm	Toledo-Port Clinton	Toledo	Toledo-Port Clinton CSA	Maintenance
Ohio	Stark County: 0.079 ppm	Cleveland-Akron-Canton	Canton-Massillon	Stark County	Maintenance
Ohio, Pennsylvania	Trumbull County, OH: 0.079 ppm	Youngstown-Warren	Youngstown-Warren-Boardman	Youngstown-Warren CSA	Maintenance
Oklahoma	Canadian County: 0.076 ppm Cleveland County: 0.076 ppm Oklahoma County: 0.079 ppm	Oklahoma City-Shawnee	Oklahoma City	Oklahoma City-Shawnee CSA & Caddo County	Attainment
Oklahoma	Cherokee County: 0.076 ppm Creek County: 0.078 ppm Tulsa County: 0.080 ppm	Tulsa-Muskogee-Bartlesville	Tahlequah; Tulsa	Tulsa-Muskogee-Bartlesville CSA, Adair County, & Mayes County	Attainment

Attachment A

Highest 2010-2012 Design Value (ppm) ¹	Population of CSA (or CBSA or County if not in CSA or CBSA) [2012 Estimate]	Parts of CSA or CBSA already designated as nonattainment with 2008 NAAQS	Requested Action	Other Notes
0.080	See above		Redesignate entire Kansas City-Overland Park-Kansas City CSA as nonattainment	
0.078	206,563		Redesignate entire Joplin-Miami CSA as nonattainment.	
0.080	See above	Madison, Monroe, St. Clair Counties, IL; Franklin, Jefferson, St Charles, St. Louis Counties, MO	Add Jersey County, IL, & Lincoln County, MO, to existing St. Louis-St. Charles-Farmington Nonattainment Area	
0.077	19,018		Redesignate all of Perry Count as nonattainment.	
0.076	2,247,056		Redesignate entire Las Vegas-Henderson CSA as nonattainment	
0.078	1,611,243		Redesignate entire Greensboro-Winston-Salem-High Point CSA as nonattainment	
0.078	1,079,417		Redesignate entire Dayton-Springfield-Sidney CSA as nonattainment	Clark and Montgomery Counties are part of the Dayton-Springfield maintenance area for the 1997 NAAQS.
0.076	650,050		Redesignate entire Toledo-Port Clinton CSA as nonattainment.	
0.079	3,497,711	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit Counties	Add Stark County to existing Cleveland-Akron-Lorain nonattainment area	
0.079	664,713		Redesignate entire Youngstown-Warren CSA as nonattainment	Warren (Trumbull County, OH) and Sharon (Mercer County, PA) are part of the Youngstown-Warren-Sharon maintenance area for the 1997 NAAQS.
0.079	1,367,325		Redesignate entire Oklahoma City-Shawnee CSA, as well as Caddo County as nonattainment.	Caddo County, located just west of the Oklahoma City-Shawnee CSA, also exceeds the 2008 NAAQS but is not part of any CSA or CBSA.
0.080	1,122,259		Redesignate entire Tulsa-Muskogee-Bartlesville CSA, as well as Mayes County as nonattainment.	Both the Tulsa (Creek & Tulsa Counties) and Tahlequah (Cherokee County) CBSAs are located in the Tulsa-Muskogee-Bartlesville CSA. The Tulsa-Muskogee-Bartlesville CSA is located directly to the northwest, west, south, and southeast of Mayes County, which is not in a CBSA or CSA.

Attachment A

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Oklahoma	Adair County: 0.076 ppm	n/a	n/a	Tulsa-Muskogee-Bartlesville CSA, Adair County, & Mayes County	Attainment
Oklahoma	Caddo County: 0.077 ppm	n/a	n/a	Oklahoma City-Shawnee CSA & Caddo County	Attainment
Oklahoma	Mayes County: 0.078 ppm	n/a	n/a	Tulsa-Muskogee-Bartlesville CSA, Adair County, & Mayes County	Attainment
Oklahoma, Missouri	Ottawa County, OK: 0.076 ppm	Joplin-Miami	Miami, OK	Joplin-Miami CSA	Attainment
Pennsylvania	Dauphin County: 0.077 ppm York County: 0.077 ppm	Harrisburg-York-Lebanon	Harrisburg-Carlisle; York-Hanover	Harrisburg-York-Lebanon CSA	Maintenance
Pennsylvania	Erie County: 0.076 ppm	Erie-Meadville	Erie, PA	Erie-Meadville CSA	Maintenance
Pennsylvania	Indiana County: 0.079 ppm	Pittsburgh-New Castle-Weirton	Indiana, PA	Indiana County	Maintenance
Pennsylvania, Ohio	Mercer County, PA: 0.079 ppm	Youngstown-Warren	Youngstown-Warren-Boardman	Youngstown-Warren CSA	Maintenance
Rhode Island, Massachusetts	Washington County, RI: 0.078 ppm	Boston-Worcester-Providence	Providence-Warwick	Providence-Warwick CBSA	Nonattainment
Tennessee, Alabama, Georgia	Hamilton County, TN: 0.076 ppm	Chattanooga-Cleveland-Dalton	Chattanooga	Chattanooga-Cleveland-Dalton CSA	Attainment

Attachment A

Highest 2010-2012 Design Value (ppm) ¹	Population of CSA (or CBSA or County if not in CSA or CBSA) [2012 Estimate]	Parts of CSA or CBSA already designated as nonattainment with 2008 NAAQS	Requested Action	Other Notes
0.076	22,286		Redesignate Adair County as nonattainment as part of a new Tulsa-Muskogee-Bartlesville nonattainment area.	Adair County is not part of any CBSA or CSA, but it is just east of Cherokee County, part of the Tulsa-Muskogee-Bartlesville CSA.
0.077	29,678		Redesignate Caddo County as nonattainment as part of a new Oklahoma City-Shawnee nonattainment area.	Caddo County is located just west of the Oklahoma City-Shawnee CSA, but is not a part of any CBSA or CSA.
0.078	41,168		Redesignate Mayes County as nonattainment as part of a new Tulsa-Muskogee-Bartlesville nonattainment area.	Mayes County is not part of any CBSA or CSA, but it is surrounded on three sides by the Tulsa-Muskogee-Bartlesville CSA.
0.076	See above		Redesignate entire Joplin-Miami CSA as nonattainment.	
0.077	1,228,559		Redesignate entire Harrisburg-York-Lebanon CSA as nonattainment.	
0.076	368,244		Redesignate entire Erie-Meadville CSA as nonattainment.	
0.079	2,661,369	Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties	Add Indiana County to existing Pittsburgh-Beaver Valley nonattainment area	EPA separated the Pittsburgh-New Castle-Weirton CSA area into three separate areas for designations for the 1997 NAAQS: Pittsburgh-Beaver Valley, Clearfield-Indiana County, and Steubenville-Weirton. Indiana County is listed as maintenance for the 1997 NAAQS.
0.079	See above		Redesignate entire Youngstown-Warren CSA as nonattainment	Warren (Trumbull County, OH) and Sharon (Mercer County, PA) are part of the Youngstown-Warren-Sharon maintenance area for the 1997 NAAQS.
0.078	7,991,371	Windham County, CT	Redesignate entire Providence-Warwick CBSA as nonattainment.	EPA lists the "Boston-Lawrence-Worcester (E Mass) area's 2012 DV as 0.079 ppm on Table 1b, and EPA similarly supplied data for the "Providence" metro area's 2012 DV, but the only individual monitor it listed was in Washington County, southwest of Providence.
0.076	936,142		Redesignate entire Chattanooga-Cleveland-Dalton CSA as nonattainment	

Attachment A

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Tennessee	Jefferson County: 0.078 ppm Sevier County: 0.076 ppm	Knoxville-Morristown-Sevierville	Morristown; Sevierville	Jefferson & Sevier Counties	Maintenance
Tennessee	Sumner County: 0.079 ppm	Nashville-Davidson-Murfreesboro	Nashville-Davidson-Murfreesboro-Franklin	Nashville-Davidson-Murfreesboro CSA	Attainment
Texas	Bexar County: 0.080 ppm	n/a	San Antonio-New Braunfels	San Antonio-New Braunfels CBSA	Attainment
Texas	Gregg County: 0.079 ppm	Longview-Marshall	Longview	Longview CBSA	Attainment
Texas	Hood County: 0.077 ppm	Dallas-Fort Worth	Dallas-Fort Worth-Arlington	Hood County	Attainment
Texas	Jefferson County: 0.080 ppm	n/a	Beaumont-Port Arthur	Beaumont-Port Arthur CBSA	Maintenance
Virginia	Charles City County: 0.079 ppm Hanover County: 0.076 ppm Henrico County: 0.078 ppm	n/a	Richmond	Richmond CBSA	Maintenance
Virginia, North Carolina	Hampton City: 0.076 ppm	Virginia Beach-Norfolk	Virginia Beach-Norfolk-Newport News	Virginia Beach-Norfolk CSA	Maintenance
Virginia	Stafford County: 0.076 ppm	Washington-Baltimore-Arlington	Washington-Arlington-Alexandria	Stafford County	Maintenance
Wisconsin	Kewaunee County: 0.078 ppm	Green Bay-Shawano	Green Bay	Green Bay-Shawano CSA, Door County, & Manitowoc County	Maintenance
Wisconsin	Door County: 0.078 ppm	n/a	n/a	Green Bay-Shawano CSA, Door County, & Manitowoc County	Maintenance
Wisconsin	Manitowoc County: 0.080 ppm	n/a	Manitowoc	Green Bay-Shawano CSA, Door County, & Manitowoc County	Maintenance

Attachment A

Highest 2010-2012 Design Value (ppm) ¹	Population of CSA (or CBSA or County if not in CSA or CBSA) [2012 Estimate]	Parts of CSA or CBSA already designated as nonattainment with 2008 NAAQS	Requested Action	Other Notes
0.078	1,091,370	Anderson, Blount, and Knox Counties	Add Sevier and Jefferson Counties, TN, to existing Knoxville Nonattainment Area	
0.079	1,845,235		Redesignate entire Nashville-Davidson-Murfreesboro CSA as nonattainment	
0.080	2,234,003		Redesignate entire San Antonio-New Braunfels CBSA as nonattainment	
0.079	284,129		Redesignate entire Longview-Marshall CSA as nonattainment	
0.077	7,095,411	Dallas-Ft. Worth area (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, & Wise Counties)	Add Hood County to existing Dallas-Fort Worth Nonattainment Area	
0.080	404,180		Redesignate entire Beaumont-Port Arthur CBSA as nonattainment	
0.079	1,231,980		Redesignate entire Richmond CBSA as nonattainment	
0.076	1,803,080		Redesignate entire Virginia Beach-Norfolk CSA as nonattainment	
0.076	9,331,587	Washington-Alexandria-Bethesda area (Arlington, Fairfax, Loudon, and Prince William Counties and Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park Cities, VA; Washington, DC; Calvert, Charles, Frederick, Montgomery, and Prince George's County, MD)	Add Stafford County to existing Washington Nonattainment Area	Stafford County, VA, is part of the Washington-Arlington-Alexandria CBSA, which is in the Washington-Baltimore-Arlington CSA.
0.078	357,045		Redesignate Kewaunee County as nonattainment as part of a new Green Bay nonattainment area.	Kewaunee County borders and is upwind of Door County.
0.078	27,817		Redesignate Door County as nonattainment as part of a new Green Bay nonattainment area.	Door County borders and is downwind of the Green Bay-Shawano CSA (Kewaunee County), and is also downwind of Manitowoc County.
0.080	80,671		Redesignate Green Bay-Shawano CSA as nonattainment as part of a new Green Bay nonattainment area.	The Manitowoc CBSA borders the Green Bay-Shawano CSA and is upwind of Door County.

Attachment A

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Wisconsin	Milwaukee County: 0.082 ppm Ozaukee County: 0.080 ppm Racine County: 0.081 ppm	Milwaukee-Racine-Waukesha	Milwaukee-Waukesha-West Allis; Racine	Milwaukee-Racine-Waukesha CSA	Maintenance
Footnote 1: Data come from table 2 of EPA's 2012 DV data.					
Footnote 2: Although maintenance status is not a designation, Table 1b of EPA's final 2012 Design Values spreadsheet lists all the areas as either "nonattainment" or "maintenance" in a column called "designation status." Note also that we use the designation "attainment" to include any "unclassifiable" designations. Data come from EPA Green Book's 1997 and 2008 Designations.					
<u>Sources:</u>					
2012 Design Values			EPA, <i>Air Quality Design Value Review: Ozone tbl.2</i> (July 1, 2013), available at http://www.epa.gov/airtrends/pdfs/Ozone_DesignValues_20102012_FINAL_08_20_13.xlsx		
2008 Designations			EPA, <i>8-Hour Ozone Nonattainment State/Area/County Report</i> (last updated July 31, 2013), http://www.epa.gov/airquality/greenbook/hncc.html .		
1997 Designations			EPA, <i>8-Hour Ozone Nonattainment and Maintenance Areas (1997 Standard)</i> (last updated July 31, 2013), http://www.epa.gov/airquality/greenbook/map8hrnm.html		
			EPA, <i>8-Hour Ozone (1997) Nonattainment Area State Map</i> (last updated July 31, 2013), http://www.epa.gov/airquality/greenbook/gmmapa.html (select link to appropriate state)		
			EPA, <i>8-Hour Ozone (1997) Maintenance Area State Map</i> (last updated July 31, 2013), http://www.epa.gov/airquality/greenbook/gmmapa.html (select link to appropriate state)		
CSA and CBSA Boundaries			Office of Management and Budget, <i>OMB Bulletin No. 13-01: Revised Delineations of Metropolitan Statistical Areas, Micropolitan Statistical Areas, and Combined Statistical Areas, and Guidance on Uses of the Delineations of These Areas</i> (Feb. 28, 2013), available at http://www.whitehouse.gov/sites/default/files/omb/bulletins/2013/b13-01.pdf .		
Population for CSAs			U.S. Census Bureau, <i>2012 Population Estimates: Table 2: Annual Estimates of the Population of Combined Statistical Areas: April 1, 2010 to July 1, 2012</i> (Mar. 28, 2013), available at http://www.census.gov/popest/data/metro/totals/2012/tables/CBSA-EST2012-02.xls		
Population for CBSAs			U.S. Census Bureau, <i>2012 Population Estimates: Table 1: Annual Estimates of the Population of Metropolitan and Micropolitan Statistical Areas: April 1, 2010 to July 1, 2012</i> (Mar. 28, 2013), available at http://www.census.gov/popest/data/metro/totals/2012/tables/CBSA-EST2012-01.xls		
Population for counties			U.S. Census Bureau, <i>Quick Facts: Population Estimates</i> , http://www.census.gov/popest/data/index.html (last visited Nov. 1, 2013) (locate state, then find county within table).		

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<u>Nonattainment Area</u>	<u>County with Monitor(s) with 2012 Design Value showing nonattainment</u>	<u>State(s)</u>	<u>Designation Status for 2008</u>		<u>Designation Status for 1997</u>		<u>2001-2003</u>		<u>2002-2004</u>		<u>2003-2005</u>	
			<u>NAAQ5</u>	<u>NAAQ5</u>	<u>NAAQ5</u>	<u>NAAQ5</u>	<u>Design Value (ppm)¹</u>	<u>Design Value (ppm)</u>	<u>Design Value (ppm)</u>	<u>Design Value (ppm)</u>	<u>Design Value (ppm)</u>	<u>Design Value (ppm)</u>
Birmingham-Hoover-Talladega CSA		AL										
	Jefferson County 1	AL	Attainment	Attainment	Maintenance	Maintenance	0.079	0.075	0.075	0.075	0.075	0.075
	Jefferson County 2	AL	Attainment	Attainment	Maintenance	Maintenance	0.083	0.080	0.080	0.079	0.079	0.079
	Jefferson County 3	AL	Attainment	Attainment	Maintenance	Maintenance	0.079	0.075	0.075	0.077	0.077	0.077
	Jefferson County 4	AL	Attainment	Attainment	Maintenance	Maintenance	0.072	0.073	0.073	0.071	0.071	0.071
Phoenix-Mesa	Eastern Pinal County (outside current nonattainment area)	AZ	Attainment	Attainment	Attainment	Attainment	0.083	0.081	0.081	0.081	0.081	0.081
Yuma CBSA	Yuma County	AZ	Attainment	Attainment	Attainment	Attainment						
Little Rock-North Little Rock CBSA	Pulaski County	AR	Attainment	Attainment	Attainment	Attainment	0.081	0.078	0.078	0.076	0.076	0.076
Philadelphia-Wilmington, Atlantic City	Kent County	DE	Attainment	Attainment	Nonattainment	Nonattainment	0.089	0.084	0.084	0.080	0.080	0.080
Hamilton County	Hamilton County	IL	Attainment	Attainment	Attainment	Attainment						
St. Louis-St. Charles-Farmington		IL, MO										
	Jersey County	IL	Attainment	Attainment	Maintenance	Maintenance	0.089	0.085	0.085	0.080	0.080	0.080
	Lincoln County	MO	Attainment	Attainment	Attainment	Attainment						
La Porte County	La Porte County	IN	Attainment	Attainment	Maintenance	Maintenance	0.093	0.086	0.086	0.078	0.078	0.078
Greene County	Greene County	IN	Attainment	Attainment	Maintenance	Maintenance	0.088	0.084	0.084	0.080	0.080	0.080
Louisville/Jefferson County-Elizabethtown-Madison CSA		IN, KY										
	Clark County	IN	Attainment	Attainment	Maintenance	Maintenance	0.092	0.088	0.088	0.081	0.081	0.081
	Floyd County	IN	Attainment	Attainment	Maintenance	Maintenance	0.086	0.084	0.084	0.079	0.079	0.079
	Jefferson County 1	KY	Attainment	Attainment	Maintenance	Maintenance	0.079	0.075	0.075	0.073	0.073	0.073
	Jefferson County 2	KY	Attainment	Attainment	Maintenance	Maintenance	0.084	0.080	0.080	0.076	0.076	0.076
	Jefferson County 3	KY	Attainment	Attainment	Maintenance	Maintenance						
	Oldham County	KY	Attainment	Attainment	Maintenance	Maintenance	0.086	0.083	0.083	0.082	0.082	0.082
Owensboro CBSA		KY										
	Daviess County	KY	Attainment	Attainment	Attainment	Attainment	0.076	0.073	0.073	0.072	0.072	0.072
	Hancock County	KY	Attainment	Attainment	Attainment	Attainment	0.082	0.080	0.080	0.073	0.073	0.073
Paducah-Mayfield CSA	McCracken County, KY	KY, IL	Attainment	Attainment	Attainment	Attainment	0.079	0.076	0.076	0.072	0.072	0.072
Evansville CBSA	Henderson County, KY	KY, IN	Attainment	Attainment	Attainment	Attainment	0.080	0.078	0.078	0.075	0.075	0.075
Wichita-Arkansas City-Winfield CSA		KS										
	Sedgwick County 1	KS	Attainment	Attainment	Attainment	Attainment	0.081	0.075	0.075	0.074	0.074	0.074
	Sedgwick County 2	KS	Attainment	Attainment	Attainment	Attainment						
	Sumner County	KS	Attainment	Attainment	Attainment	Attainment	0.078	0.069	0.069	0.069	0.069	0.069
Kansas City-Overland Park-Kansas City CSA		KS, MO										
	Johnson County	KS	Attainment	Attainment	Attainment	Attainment						
	Clay County 1	MO	Attainment	Attainment	Attainment	Attainment	0.080	0.078	0.078	0.077	0.077	0.077
	Clay County 2	MO	Attainment	Attainment	Attainment	Attainment	0.085	0.082	0.082	0.083	0.083	0.083
	Clay County 3	MO	Attainment	Attainment	Attainment	Attainment						
	Clinton County	MO	Attainment	Attainment	Attainment	Attainment						
Shreveport-Bossier City CBSA		LA										
	Bossier Parish	LA	Attainment	Attainment	Attainment	Attainment	0.080	0.075	0.075	0.077	0.077	0.077

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2004-2006 Design Value (ppm)	2005-2007 Design Value (ppm)	2006-2008 Design Value (ppm)	2007-2009 Design Value (ppm)	2008-2010 Design Value (ppm) ²	2009-2011 Design Value (ppm) ²	2010-2012 Design Value (ppm) ³	Mean Design Value 2003-2012	Difference between 2012 DV and Mean DV ⁴	Standard Deviation ⁵	1rd Quartile	3rd Quartile	2010 Design Value lowest in 2003-2012 period? ⁶	2011 design value lowest in 2003-2012 period? ⁶	2010 and/or 2011 Design Value(s) only one in 2003-2012 period less than or equal to 75 ppb? ⁶
0.080	0.089	0.086	0.079	0.073	0.074	0.080	0.079	0.001	0.005206833	0.0685863	0.0894137	Yes		
0.083	0.089	0.087	0.080	0.075	0.075	0.077	0.081	-0.004	0.004732864	0.0713343	0.0902657	Yes	Yes	Yes
0.080	0.086	0.083	0.078	0.073	0.075	0.077	0.078	-0.001	0.003917199	0.0704656	0.0861344	Yes		
0.073	0.075	0.076	0.072	0.069	0.071	0.076	0.073	0.003	0.002299758	0.0682005	0.0773995	Yes		
0.078	0.079	0.078	0.075	0.074	0.073	0.076	0.078	-0.002	0.00329309	0.0712138	0.0843862		Yes	
				0.073	0.073	0.077	0.074	0.003	0.002309401	0.0697145	0.0789521	Yes	Yes	Yes
0.080	0.083	0.080	0.073	0.070	0.074	0.077	0.077	0.000	0.004022161	0.0691557	0.0852443	Yes		
0.080	0.081	0.081	0.075	0.074	0.071	0.078	0.079	-0.001	0.005165054	0.0689699	0.0896301		Yes	
	0.073	0.069	0.068	0.068	0.071	0.078	0.071	0.007	0.003868678	0.0634293	0.078904	Yes		
				0.069	0.072	0.079	0.077	0.002	0.006464433	0.0643711	0.0902289	Yes		
0.078	0.078	0.073	0.070	0.069	0.072	0.079	0.077	0.002	0.005727128	0.0665457	0.0894543	Yes		
0.087	0.077	0.081	0.075	0.072	0.073	0.080	0.078	0.002	0.008984555	0.0585309	0.0944691	Yes		
0.076	0.077	0.069	0.066	0.065	0.072	0.083	0.077	0.007	0.008984555	0.0585309	0.0944691	Yes		
0.076	0.079	0.077	0.074	0.071		0.078	0.079	-0.001	0.005101743	0.0683521	0.088759	Yes		
0.077	0.083	0.081	0.077	0.073	0.075	0.081	0.081	0.000	0.00582714	0.0691457	0.0924543	Yes		Yes
0.075	0.079	0.077	0.073	0.070	0.071	0.079	0.077	0.002	0.005229192	0.0668416	0.0877584	Yes		
0.074	0.079	0.077	0.075	0.071	0.074	0.080	0.076	0.004	0.002945807	0.0698084	0.0815916	Yes		
0.077	0.082	0.079	0.079	0.075	0.078	0.079	0.079	0.000	0.002685351	0.0735293	0.0842707	Yes		Yes
						0.085	0.085	0.000	0.085	0.085	0.085			Yes
0.082	0.085	0.081	0.076	0.074	0.078	0.086	0.081	0.005	0.004137901	0.0730242	0.0895758	Yes		Yes
0.074	0.081	0.077	0.075	0.070	0.073	0.079	0.075	0.004	0.003333333	0.0683333	0.0816667	Yes		
0.073	0.076	0.076	0.074	0.071	0.072	0.076	0.075	0.001	0.003497618	0.0683048	0.0822952	Yes		
0.072	0.076	0.075	0.072	0.070	0.070	0.077	0.074	0.003	0.003107339	0.0676853	0.0801147	Yes	Yes	
0.073	0.078	0.077	0.076	0.073	0.074	0.079	0.076	0.003	0.002496664	0.0713067	0.0812933	Yes		
0.071	0.069	0.066	0.066	0.071	0.074	0.077	0.072	0.005	0.004765618	0.0628688	0.0819312			
					0.073	0.077	0.075	0.002	0.002828427	0.0693431	0.0806569		Yes	Yes
0.070	0.076	0.072	0.070	0.072	0.075	0.077	0.073	0.004	0.003425395	0.0659492	0.0796508			
0.074	0.076	0.069	0.065	0.065	0.069	0.076	0.071	0.005	0.004832923	0.0615842	0.0809158	Yes		
0.079	0.081	0.077	0.072	0.072	0.075	0.079	0.077	0.002	0.003126944	0.0707461	0.0832539	Yes		
0.084	0.087	0.081	0.074	0.070	0.073	0.077	0.080	-0.003	0.005738757	0.0681225	0.0910775	Yes		
0.081	0.087	0.081	0.076	0.072	0.075	0.080	0.080	0.000	0.004530759	0.070494	0.0886171	Yes		Yes
0.081	0.085	0.079	0.076	0.073	0.076	0.080	0.079	0.001	0.003952094	0.0706672	0.0864756	Yes		Yes
0.078	0.079	0.074	0.072	0.074	0.080	0.078	0.077	0.001	0.002790858	0.0711183	0.0822817			

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<u>Nonattainment Area</u>	<u>County with Monitor(s) with 2012 Design Value showing nonattainment</u>	<u>State(s)</u>	<u>Designation Status for 2008</u>		<u>Designation Status for 1997</u>	<u>2001-2003</u>		<u>2002-2004</u>		<u>2003-2005</u>	
			<u>NAAQ5</u>	<u>NAAQ5</u>		<u>Design Value (ppm)¹</u>	<u>Design Value (ppm)</u>	<u>Design Value (ppm)</u>	<u>Design Value (ppm)</u>	<u>Design Value (ppm)</u>	<u>Design Value (ppm)</u>
	Caddo Parish	LA	Attainment	Attainment	Attainment	0.077	0.076	0.076	0.078		
Baton Rouge	Pointe Coupee Parish	LA	Attainment	Attainment	Attainment	0.073	0.076	0.076	0.081		
Baltimore	Kent County	MD	Attainment	Attainment	Maintenance	0.095	0.089	0.089	0.082		
Detroit-Warren-Ann Arbor CSA	MI	MI									
	Genesee County	MI	Attainment	Attainment	Maintenance	0.088	0.083	0.083	0.080		
	Lenawee County	MI	Attainment	Attainment	Maintenance	0.087	0.083	0.083	0.081		
	Macomb County 1	MI	Attainment	Attainment	Maintenance	0.097	0.092	0.092	0.090		
	Macomb County 2	MI	Attainment	Attainment	Maintenance	0.095	0.088	0.088	0.087		
	Oakland County	MI	Attainment	Attainment	Maintenance	0.091	0.086	0.086	0.081		
	St. Clair County	MI	Attainment	Attainment	Maintenance	0.090	0.086	0.086	0.082		
	Washtenaw County	MI	Attainment	Attainment	Maintenance	0.091	0.084	0.084	0.081		
	Wayne County	MI	Attainment	Attainment	Maintenance	0.091	0.082	0.082	0.081		
Grand Rapids-Wyoming-Muskegon CSA	MI	MI									
	Allegan County	MI	Attainment	Attainment	Maintenance	0.097	0.093	0.093	0.089		
	Muskegon County	MI	Attainment	Attainment	Maintenance	0.095	0.086	0.086	0.084		
	Ottawa County	MI	Attainment	Attainment	Maintenance	0.089	0.084	0.084	0.081		
Elkhart-South Bend-Mishawaka CSA	MI, IN	MI, IN									
	Berrien County	MI	Attainment	Attainment	Maintenance	0.091	0.086	0.086	0.084		
	Cass County	MI	Attainment	Attainment	Maintenance	0.093	0.089	0.089	0.084		
Joplin-Miami CSA	MO, OK	MO, OK									
	Jasper County	MO	Attainment	Attainment	Attainment						
	Ottawa County	OK	Attainment	Attainment	Attainment	0.079	0.078	0.078	0.079		
Perry County	Perry County	MO	Attainment	Attainment	Attainment						
Las Vegas-Henderson CSA	NV, AZ	NV, AZ									
	Clark County 1	NV	Attainment	Attainment	Maintenance	0.081	0.080	0.080	0.082		
	Clark County 2	NV	Attainment	Attainment	Maintenance	0.086	0.085	0.085	0.085		
Greensboro-Winston-Salem-High Point CSA	NC	NC									
	Forsyth County 1	NC	Attainment	Attainment	Attainment	0.093	0.087	0.087	0.078		
	Forsyth County 2	NC	Attainment	Attainment	Attainment						
	Guilford County	NC	Attainment	Attainment	Attainment						
Cleveland-Akron-Lorain	Stark County	OH	Attainment	Attainment	Maintenance	0.090	0.085	0.085	0.079		
Dayton-Springfield-Sidney CSA	OH	OH									
	Clark County	OH	Attainment	Attainment	Maintenance	0.088	0.087	0.087	0.083		
	Montgomery County	OH	Attainment	Attainment	Maintenance						
Toledo-Port Clinton CSA	Lucas County	OH	Attainment	Attainment	Maintenance	0.093	0.089	0.089	0.086		
Youngstown-Warren CSA	OH, PA	OH, PA									
	Trumbull County	OH	Attainment	Attainment	Maintenance	0.095	0.091	0.091	0.086		
	Mercer County	PA	Attainment	Attainment	Maintenance	0.094	0.088	0.088	0.083		
Tulsa-Muskogee-Bartlesville CSA & Adair & Mayes Counties	OK	OK									
	Adair County	OK	Attainment	Attainment	Attainment		0.077	0.077	0.076		

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2004-2006 Design Value (ppm)	2006-2008 Design Value (ppm)	2007-2009 Design Value (ppm)	2008-2010 Design Value (ppm) ²	2009-2011 Design Value (ppm) ²	2010-2012 Design Value (ppm) ³	Mean Design Value, 2003-2012	Difference between 2012 DV and Mean DV ⁴	Standard Deviation ⁵	1rd Quartile	3rd Quartile	2010 Design Value lowest in 2003-2012 period? ⁶	2011 design value lowest in 2003-2012 period? ⁶	2010 and/or 2011 Design Value(s) only one in 2003-2012 period less than or equal to 75 ppb? ⁶
0.080	0.079	0.076	0.072	0.075	0.076	0.076	0.000	0.002828427	0.0703431	0.0816569			
0.084	0.086	0.083	0.075	0.075	0.077	0.079	-0.002	0.00444847	0.0698031	0.0875969			Yes
0.081	0.083	0.083	0.075	0.074	0.082	0.082	0.000	0.006232531	0.0697349	0.0946651	Yes		
0.075	0.077	0.074	0.068	0.069	0.076	0.076	0.000	0.006178817	0.0638424	0.0885576	Yes		
0.076	0.079	0.075	0.073		0.076	0.079	-0.003	0.004682795	0.0693844	0.0881156			
0.082	0.086	0.081	0.074	0.075	0.078	0.083	-0.005	0.007633261	0.0681335	0.0986665	Yes		Yes
0.079	0.086	0.080	0.073	0.076	0.079	0.082	-0.003	0.006674162	0.0687517	0.0954483	Yes		Yes
0.075	0.078	0.077	0.073	0.075	0.078	0.079	-0.001	0.005526703	0.0680466	0.0901534	Yes		
0.080	0.085	0.078	0.071	0.074	0.077	0.080	-0.003	0.00595912	0.0678818	0.0917182	Yes		
0.076	0.078	0.074	0.066	0.069	0.076	0.077	-0.001	0.007487026	0.0615259	0.0914741	Yes		
	0.083	0.082	0.075	0.078	0.081	0.081	0.000	0.004333333	0.0727778	0.0901111	Yes		Yes
0.088	0.093	0.086	0.074	0.078	0.084	0.086	-0.002	0.007211873	0.0718763	0.1007237	Yes		Yes
0.083	0.088	0.082	0.074	0.076	0.082	0.083	-0.001	0.006201254	0.0702975	0.0951025	Yes		Yes
0.079	0.085	0.079	0.069	0.073	0.078	0.079	-0.001	0.005940445	0.0673191	0.0910809	Yes		
0.079	0.084	0.078	0.071	0.075	0.082	0.081	0.001	0.005929212	0.0687416	0.0924584	Yes		Yes
0.078	0.080	0.075	0.070	0.074	0.078	0.080	-0.002	0.007136759	0.0653265	0.0938735	Yes		
0.078	0.077	0.072	0.065	0.075	0.078	0.077	0.002	0.00212132	0.0722574	0.0807426	Yes	Yes	Yes
0.075	0.080	0.077	0.072	0.073	0.076	0.074	0.002	0.005216427	0.0636671	0.0845329	Yes		
			0.072	0.073	0.077	0.075	0.002	0.002760262	0.069908	0.0809491	Yes		
0.083	0.086	0.082	0.074	0.074	0.076	0.080	-0.004	0.004005552	0.0715889	0.0876111	Yes	Yes	Yes
0.083	0.083	0.078	0.076	0.075	0.076	0.081	-0.005	0.004211096	0.0723778	0.0892222	Yes	Yes	Yes
0.077	0.079	0.081	0.076	0.075	0.078	0.080	-0.002	0.005646041	0.0688079	0.0913921	Yes	Yes	Yes
	0.076	0.077	0.073	0.072	0.076	0.074	0.002	0.002250926	0.0698315	0.0788352	Yes	Yes	Yes
	0.082	0.082	0.076	0.074	0.076	0.078	-0.002	0.003371449	0.0714238	0.0849096	Yes	Yes	Yes
0.076	0.079	0.079	0.074	0.075	0.079	0.079	0.000	0.004976612	0.0691468	0.0890532	Yes		
0.080	0.080	0.076	0.073	0.074	0.076	0.079	-0.003	0.005445691	0.0682086	0.0899914	Yes		
0.073	0.075	0.074	0.075	0.076	0.078	0.075	0.003	0.001632993	0.071734	0.078266			
0.079	0.079	0.075	0.072	0.072	0.076	0.080	-0.003	0.007382412	0.0647352	0.0942648	Yes	Yes	
0.083	0.084	0.081	0.074	0.074	0.079	0.082	-0.003	0.00702456	0.0682509	0.0963491	Yes	Yes	Yes
0.080	0.083	0.080	0.074	0.073	0.079	0.081	-0.002	0.006332456	0.0684351	0.0937649	Yes	Yes	Yes
0.075	0.076	0.073	0.067	0.070	0.076	0.073	0.003	0.003822448	0.0654662	0.080756	Yes		

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2004-2006 Design Value (ppm)	2006-2008 Design Value (ppm)	2007-2009 Design Value (ppm)	2008-2010 Design Value (ppm) ²	2009-2011 Design Value (ppm) ²	2010-2012 Design Value (ppm) ³	Mean Design Value 2003-2012	Difference between 2012 DV and Mean DV ⁴	Standard Deviation ⁵	1rd Quartile	3rd Quartile	2010 Design Value lowest in 2003-2012 period? ⁶	2011 design value lowest in 2003-2012 period? ⁶	2010 and/or 2011 Design Value(s) only one in 2003-2012 period less than or equal to 75 ppb? ⁶
0.076	0.076	0.073	0.068	0.071	0.076	0.074	0.003	0.003341656	0.0668167	0.0801833	Yes		
0.077	0.077	0.075	0.070	0.075	0.078	0.075	0.003	0.002900123	0.0690748	0.0806752	Yes		
0.079	0.078	0.072	0.067	0.074	0.078	0.074	0.004	0.004740906	0.0643753	0.0833339	Yes		
0.079	0.080	0.078	0.075	0.077	0.080	0.079	0.002	0.002415229	0.0736695	0.0833305	Yes		
0.073	0.073	0.071	0.067	0.072	0.077	0.074	0.003	0.004695151	0.0642097	0.0829903	Yes		
0.079	0.080	0.076	0.070	0.075	0.078	0.077	0.001	0.003489667	0.0698207	0.0837793	Yes		
0.077	0.078	0.074	0.070	0.075	0.080	0.076	0.004	0.003368151	0.0689637	0.0824363	Yes		
0.076	0.076	0.074	0.071	0.075	0.077	0.075	0.003	0.003535534	0.0674289	0.0815711	Yes	Yes	Yes
0.075	0.075	0.073	0.069	0.073	0.076	0.073	0.001	0.002127858	0.0702998	0.0788113	Yes		
0.077	0.077	0.075	0.072	0.075	0.077	0.076	0.003	0.002540779	0.0682184	0.0783816	Yes		
0.076	0.078	0.077	0.072	0.075	0.077	0.076	0.001	0.002211083	0.0715778	0.0804222	Yes		
0.081	0.080	0.079	0.074	0.077	0.079	0.078	0.001	0.001810463	0.0719346	0.0791765	Yes		
							0.001	0.002263233	0.0737735	0.0828265	Yes		
0.079	0.081	0.079	0.074	0.077	0.077	0.078	-0.001	0.004547282	0.0692054	0.0873946	Yes	Yes	
0.079	0.082	0.078	0.075	0.077	0.077	0.074	0.003	0.002645751	0.0687085	0.0792915	Yes	Yes	Yes
							-0.004	0.006484169	0.0666317	0.0925683	Yes	Yes	
							0.003	0.003060501	0.0697123	0.0819543		Yes	
0.085	0.084	0.081	0.077	0.077	0.078	0.083	-0.005	0.007052186	0.0686956	0.0969044	Yes	Yes	Yes
0.080	0.084	0.084	0.079	0.075	0.076	0.080	-0.004	0.004756282	0.0706874	0.0897126	Yes	Yes	Yes
0.081	0.084	0.081	0.076	0.074	0.078	0.081	-0.003	0.005696978	0.069306	0.092094	Yes	Yes	Yes
0.077	0.082	0.082	0.076	0.075	0.076	0.080	-0.004	0.005355164	0.0695897	0.0910103	Yes	Yes	Yes
0.083	0.084	0.084	0.076	0.075	0.079	0.081	-0.002	0.003741657	0.0735167	0.0884833	Yes	Yes	Yes
0.083	0.078	0.076	0.075	0.075	0.077	0.080	-0.003	0.006236986	0.067826	0.092774			
0.087	0.082	0.078	0.075	0.075	0.080	0.081	-0.001	0.005846176	0.0695076	0.0928924			
0.085	0.084	0.078	0.074	0.077	0.079	0.080	-0.001	0.004012481	0.072075	0.088125	Yes		
0.084	0.084	0.081	0.075	0.076	0.077	0.080	-0.003	0.003496029	0.0730079	0.0869921	Yes		Yes
0.085	0.081	0.077		0.079	0.080	0.084	-0.004	0.005718079	0.0726888	0.09555612			
0.080	0.082	0.083	0.075	0.075	0.079	0.081	-0.002	0.005138093	0.0705238	0.0910762	Yes	Yes	Yes
0.081	0.081	0.080	0.075	0.073	0.076	0.081	-0.005	0.006766749	0.0671665	0.0942335	Yes	Yes	
0.081	0.085	0.085	0.076	0.074	0.078	0.081	-0.003	0.004962078	0.0712758	0.0911242	Yes	Yes	Yes
0.076	0.076	0.077	0.072	0.071	0.076	0.078	-0.001	0.006041523	0.065417	0.089583	Yes	Yes	
					0.076	0.076	0.000						
0.081	0.085	0.081	0.070	0.072	0.076	0.079	-0.003	0.006124632	0.0665507	0.0910493	Yes		

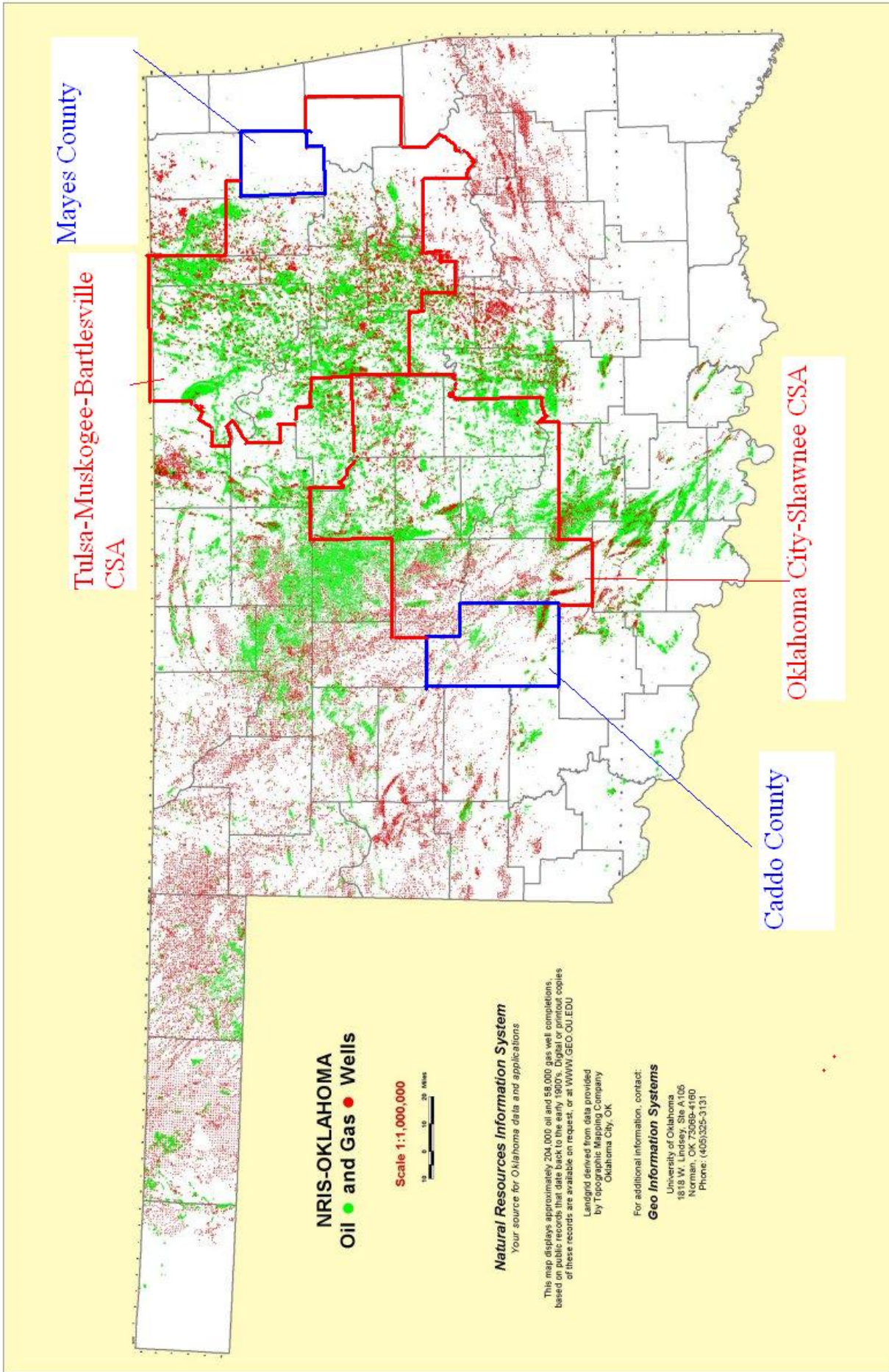
Attachment B

Nonattainment Area	County with Monitor(s) with 2012 Design Value showing nonattainment	State(s)	Designation Status for 2008		Designation Status for 1997		2001-2003		2002-2004		2003-2005	
			NAAQs	Attainment	NAAQs	Maintenance	Value (ppm) ¹	Value (ppm)	Value (ppm)	Value (ppm)	Value (ppm)	Value (ppm)
	Door County	WI	Attainment	Attainment	Maintenance	Maintenance	0.094	0.088	0.090	0.086	0.087	0.087
	Kewaunee County	WI	Attainment	Attainment	Maintenance	Maintenance	0.093	0.087	0.086	0.086	0.086	0.086
	Manitowoc County	WI	Attainment	Attainment	Maintenance	Maintenance	0.090	0.083	0.087	0.087	0.087	0.087
	Milwaukee-Racine-Waukesha CSA	WI										
	Milwaukee County 1	WI	Attainment	Attainment	Maintenance	Maintenance	0.084	0.076	0.077	0.077	0.077	0.077
	Milwaukee County 2	WI	Attainment	Attainment	Maintenance	Maintenance	0.094	0.088	0.086	0.086	0.086	0.086
	Ozaukee County 1	WI	Attainment	Attainment	Maintenance	Maintenance	0.092	0.085	0.085	0.085	0.085	0.085
	Ozaukee County 2	WI	Attainment	Attainment	Maintenance	Maintenance	0.098	0.088	0.088	0.088	0.088	0.088
	Racine County	WI	Attainment	Attainment	Maintenance	Maintenance	0.095	0.087	0.082	0.082	0.082	0.082
[REDACTED]												
Footnote 1: Bolded numbers are outliers (two standard deviations greater than or less than the mean).												
Footnote 2: Red highlight indicates value less than 2003-2012 mean.												
Footnote 3: Green highlight indicates value greater than or equal to 2003-2012 mean.												
Footnote 4: Rose highlighting indicates difference between 2012 Design Value and 2003-2012 mean is greater than zero.												
Footnote 5: Although data is non-normal (many areas show a generally declining trend), it falls within a relatively narrow range with bidirectional annual fluctuations, warranting calculating a standard deviation.												
Footnote 6: Not all monitors had 10 years of data available. Some monitors appear to have been discontinued at various points, some new monitors are added, and some monitors are missing one or more years of data.												
* The monitor that shows the Virginia Beach-Norfolk CSA is violating the 2008 NAAQS only has data for the 2010-12 DV. Thus, for this area only, we include the data that EPA provides for the Norfolk-Virginia Beach-Newport News (HR), VA, area that is maintenance for the 1997 NAAQS and that is entirely included within this CSA.												
We refer to "unclassifiable" designations as "attainment" designations.												

Attachment B

2004-2006 Design Value (ppm)	2005-2007 Design Value (ppm)	2006-2008 Design Value (ppm)	2007-2009 Design Value (ppm)	2008-2010 Design Value (ppm) ²	2009-2011 Design Value (ppm) ²	2010-2012 Design Value (ppm) ³	Mean Design Value 2003-2012	Difference between 2012 DV and Mean DV ⁴	Standard Deviation ⁵	1rd Quartile	3rd Quartile	2010 Design Value lowest in 2003-2012 period? ⁶	2011 design value lowest in 2003-2012 period? ⁶	2010 and/or 2011 Design Value(s) only one in 2003-2012 period less than or equal to 75 ppb? ⁶
0.086	0.090	0.080	0.078	0.073	0.074	0.078	0.083	-0.005	0.00740045	0.0682991	0.0979009	Yes		Yes
0.079	0.083	0.075	0.073	0.071	0.073	0.078	0.080	-0.002	0.007238784	0.0653224	0.0942776	Yes		
0.082	0.086	0.075	0.075	0.073	0.077	0.080	0.081	-0.001	0.005769652	0.0692607	0.0923393	Yes		
0.074	0.077	0.068	0.068	0.068	0.071	0.078	0.074	0.004	0.005321863	0.0634563	0.0847437	Yes		
0.079	0.083	0.075	0.074	0.074	0.074	0.082	0.082	0.000	0.006910137	0.0678464	0.0954869	Yes		
0.078	0.081	0.072	0.071	0.068	0.072	0.080	0.078	0.002	0.007647803	0.0631044	0.0936956	Yes		
0.079	0.083	0.074	0.073	0.071	0.073	0.077	0.080	-0.003	0.008720347	0.0629593	0.0978407	Yes		
0.078	0.081	0.071	0.071	0.071	0.075	0.081	0.079	0.002	0.007786027	0.0636279	0.0947721	Yes		
[REDACTED]														
Total less than mean: ^{6,*} 96/97 92/99														
Percent less than mean: ^{6,*} 98.97% 92.93%														
Total greater than mean: ^{6,*} 50/104														
Percent greater than mean: ^{6,*} 48.08%														
Percent less than or equal to mean: ^{6,*} 51.92%														
Total: ^{6,*} 71/97 30/99 33/101														
Percent: ^{6,*} 73.20% 30.30% 32.67%														
Total, 2010 or 2011 is lowest year: 92/101														
Percent, 2010 or 2011 is lowest year: 91.09%														
<p>For purposes of this comparison only, we treat the EPA-reported Norfolk-Virginia Beach-Newport News (HR), VA, data as if it were a monitor. Thus, the total number of monitors is 103, and 1 data point is an area that EPA supplied DVs for because it is a maintenance area for the 1997 NAAQS.</p>														

Attachment C



<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Clean Air Act, 42 USC §7604(a). Unreasonable delay of response to petition to revise ozone designations.

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: 07/28/2014	SIGNATURE OF ATTORNEY OF RECORD /s/Seth L. Johnson
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

AO 440 (Rev. 12/09; DC 03/10) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

Sierra Club

Plaintiff

v.

GINA McCARTHY, Administrator, United States Environmental Protection Agency, in her official capa

Defendant

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)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Eric Holder
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Seth L. Johnson, David S. Baron
Earthjustice
1625 Massachusetts Ave, NW
Suite 702
Washington, DC 20036

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify):* _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09; DC 03/10) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

Sierra Club

Plaintiff

v.

GINA McCARTHY, Administrator, United States Environmental Protection Agency, in her official capa

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Ronald C. Machen, Jr.
United States Attorney for the District of Columbia
c/o Princess Kyle, Civil Process Clerk
United States Attorney's Office
555 4th Street, NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Seth L. Johnson, David S. Baron
Earthjustice
1625 Massachusetts Ave, NW
Suite 702
Washington, DC 20036

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify):* _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09; DC 03/10) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

Sierra Club

Plaintiff

v.

GINA McCARTHY, Administrator, United States Environmental Protection Agency, in her official capa

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) GINA McCARTHY, Administrator of the U.S. Environmental Protection Agency
U.S. EPA
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Seth L. Johnson, David S. Baron
Earthjustice
1625 Massachusetts Ave, NW
Suite 702
Washington, DC 20036

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify):* _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: