



REGION 5 ADMINISTRATOR

CHICAGO, IL 60604

July 28, 2026

Mr. Steven Little
Deputy Secretary
Wisconsin Department of Natural Resources
101 S. Webster Street, Box 7921
Madison, Wisconsin 53707-7921

Dear Deputy Secretary Little:

This letter responds to your July 16, 2026, petition for the U.S. Environmental Protection Agency to reconsider and stay a final action published in the Federal Register on December 17, 2024. The final action determined that areas in Wisconsin failed to attain the 2015 Ozone National Ambient Air Quality Standards by the applicable attainment date. The effect of failing to attain by the applicable attainment date is that the areas were reclassified by operation of law to “Serious” nonattainment for the 2015 Ozone NAAQS on January 16, 2025, the effective date of this final rule. See 89 Federal Register 101901 (Dec. 17, 2024) (Determination).

Petition for Reconsideration and Stay

The EPA is granting the petition to reconsider its determination that the areas failed to attain by the attainment date. The agency has the inherent authority to reconsider decisions, in addition to its rulemaking authority under the Administrative Procedure Act, 5 U.S.C. Section 553(e). Accordingly, the EPA intends to undertake a notice-and-comment action to reconsider the determination.

We are not granting this petition in any other respect. The petition asks for reconsideration under the authority of the Clean Air Act, Section 307(d)(7)(B), and asks the EPA to grant a stay of the action. Because the determination is not among the types of actions listed in the Clean Air Act, Section 307(d)(1), the reconsideration and stay procedures in the Clean Air Act, Section 307(d)(7)(B) are not available here. Further, the Administrative Procedure Act does not grant the EPA the authority to stay the determination because its effective date has passed. Accordingly, we cannot issue a stay of the determination.

Pending Litigation

A petition for review of the determination was filed in the United States Court of Appeals for the Seventh Circuit, *State of Wisconsin v. EPA*, No. 25-1239 (7th Cir., filed Feb. 14, 2025). Wisconsin filed a motion to stay the determination on August 20, 2025, which the court granted on September 5, 2025. The determination remains stayed by the court as of the date of this letter. The EPA will notify the court of our decision to reconsider the determination.

Thank you for contacting the EPA about this matter. If you have questions, you are welcome to contact me, or your staff may contact John Mooney, Director of the EPA Region 5 Air and Radiation Division, at mooney.john@epa.gov or 312-886-6043.

Sincerely,

Anne Vogel
US EPA Region 5 Administrator
& Great Lakes National Program Manager