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EPA Downgrades Denver Air Quality After Delays That Irked Activists

[Chase Woodruff](#) | December 16, 2019 | 5:46pm

After months of careful deliberation, officials at President Donald Trump's [Environmental Protection Agency](#) have finally made an important determination: The number 79, the agency has concluded after an extensive review, is indeed higher than the number 75.

That's essentially the [announcement the EPA made](#) today, December 16, when it confirmed that it would reclassify a nine-county region surrounding Denver as a "serious" violator of federal ozone standards under the Clean Air Act.

"EPA is taking this action based on monitoring data showing that ozone remains a challenge in Denver and northern Front Range communities," Gregory Sopkin, administrator for the EPA's Region 8, said in a statement.

The Denver region's high levels of ozone — an air pollutant that makes up the primary component of smog and poses a wide variety of health hazards — have exceeded the threshold set by the [National Ambient Air Quality Standards](#) (NAAQS) since the limit was revised downward, to 75 parts per billion (ppb), in 2008. Under federal clean-air rules, regions that have failed to attain NAAQS standards for nine years or more are considered "serious" violators, triggering a [host of new requirements for air pollution controls](#) at the state level.

More than a decade after the enactment of the 2008 standards, northeast Colorado's so-called non-attainment area is still recording ozone levels of 79 ppb, exceeding the 75 ppb limit. The reclassification to "serious" non-attainment seemed like a cut-and-dried decision for EPA regulators to make. So what took so long?

For starters, former governor John Hickenlooper in 2018 [requested an extension](#) to give the state more time to meet the 2008 standard. In March, his successor, Governor Jared Polis, [withdrew the request](#), vowing that the state would no longer "hide behind bureaucracy and paperwork that delay action" — but the EPA continued to slow-walk the process.

The agency's delays ultimately prompted a lawsuit from the environmental activist group WildEarth Guardians, and a [federal judge ruled in July that EPA officials](#) had "failed to perform a non-discretionary duty" under the Clean Air Act.

The EPA [finally held a hearing on the proposed reclassification](#) at its Denver offices in September. Elected officials from Weld County, along with representatives of the oil and gas industry — which [studies have shown accounts for nearly half](#) of the region's local ozone production — testified in opposition to the downgrade, arguing that the tighter regulations it would trigger could threaten the industry.

But Robert Ukeiley, an attorney with the [Center for Biological Diversity](#)'s environmental health program, criticized the EPA for dragging its feet over what he said should have been a simple determination. The agency "should make its final decision very quickly, within a matter of days," he said at the September hearing.

Instead, the decision took more than three months. Now that the reclassification is official, Colorado air regulators will have to update the so-called State Implementation Plan (SIP), a set of emissions rules designed to bring the state into compliance with the NAAQS limits.

"EPA's action to reclassify the Denver area requires the State to revise its SIP in order to attain the ozone standard, and adopt new categories of controls, or reasonably available control technologies, on emissions sources," the agency said in a press release. Regulators at the [Colorado Department of Public Health and Environment](#) now have until July 20, 2021 to enact a stricter set of emissions regulations — and for environmental activists, the new rules can't come fast enough.

"The air in beautiful Colorado has been unsafe to breathe for far too long," Ukeiley said in a statement Monday. "This important decision means the region's oil and fracked gas polluters are one step closer to finally being required to clean up their dangerous emissions."