

# Guidance for Delisting Michigan's Great Lakes Areas of Concern

## Background and Summary

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Fact sheet prepared by



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### Overview

The Michigan Department of Environmental Quality (DEQ) has developed *Guidance for Delisting Michigan's Great Lakes Areas of Concern*, a document that outlines the process for delisting the state's 14 AOCs and identifies specific criteria that the state will use to determine when beneficial use impairments (BUIs) have been restored. The document provides a consistent, statewide approach for measuring progress in cleaning up the AOCs, as well as a clear process for formally removing – or “delisting” – them from the list of Great Lakes AOCs.

This fact sheet summarizes the delisting guidance, which was finalized in January 2006. The complete document is posted on DEQ's website (go to [www.michigan.gov/deq](http://www.michigan.gov/deq), click on “water,” then “Great Lakes,” then “Areas of Concern”).

### Key Aspects of Michigan's AOC Delisting Guidance

- The guidance establishes delisting targets for 12 of the 14 BUIs for all of Michigan's AOCs. With the exception of fish and wildlife habitat and populations (for which local restoration plans are required), individual AOCs do NOT need to develop delisting targets.
- The delisting criteria are consistent with state and federal laws and regulations. However, because the Great Lakes Water Quality Agreement is a nonregulatory agreement, DEQ's delisting criteria are nonregulatory in nature.
- Monitoring programs exist to assess progress in meeting the new delisting criteria. DEQ is committed to conducting and reporting on this monitoring.
- Delisting Michigan's AOCs is just one step in the process of restoring and protecting these areas of the Great Lakes. Thus, delisting is one point on a “restoration continuum.” Delisting an AOC does not mean that all environmental problems have been solved, or that additional restoration efforts are not required. It will be essential to continue protecting water resources after the AOCs are delisted.

### Statewide Restoration Criteria for Beneficial Use Impairments

The core of DEQ's new delisting guidance are specific restoration criteria for each of the 14 BUIs identified under the Great Lakes Water Quality Agreement. These criteria represent Michigan's position on what constitutes restoration of the BUIs. Once an AOC has met these criteria for each of its BUIs, it will be considered restored by the State of Michigan.

Local public advisory councils (PACs) may use alternate criteria as long as they are functionally equivalent to, or more protective than, Michigan's statewide criteria.

The criteria for each BUI include four main components:

1. **Significance in Michigan's AOCs:** The number of AOCs affected by the impairment and other relevant considerations.
2. **Restoration Criteria and Assessment:** The specific quantitative goals for guiding restoration, and the monitoring and assessment required to demonstrate that the beneficial use has been restored.
3. **Rationale:** This references the International Joint Commission's (IJC) AOC listing/delisting guidelines, and the rationale for why the criteria were selected for Michigan's AOCs.
4. **Michigan Programs and Authorities for Evaluating Restoration:** This provides a brief review of state programs and methodologies that DEQ will use to assess whether the restoration criteria have been met.

A fundamental assumption of the statewide restoration criteria is that sources of pollution within an AOC that cause a BUI must be controlled before the impairment can be removed and the AOC delisted.

Conversely, BUIs can be removed if they are caused by pollution that stems only from sources outside of an AOC. For example, fish consumption advisories that affect all AOCs will not preclude removal of this BUI at a particular AOC.

## Tracking Restoration of Beneficial Use Impairments

The delisting guidance describes how DEQ will apply its restoration criteria to the BUIs and document progress toward removing individual impairments. DEQ will work in partnership with the PACs and the U.S. Environmental Protection Agency (U.S. EPA) in this effort.

Remedial Action Plan (RAP) updates are the primary tool for documenting progress in restoring beneficial uses in the AOCs. DEQ will prepare RAP updates every two years in collaboration with the PACs and U.S. EPA. Future RAP updates will be brief, user-friendly documents that summarize actions and BUI assessments in the AOC over the previous two years. Comprehensive reports on the entire AOC will be prepared when the area is ready to go through the delisting process.

## Removing Individual Beneficial Use Impairments

DEQ will remove individual BUIs when it determines, in consultation with the PAC, that the restoration criteria for that BUI have been achieved. Following a public meeting and formal support from the PAC, DEQ will request concurrence from U.S. EPA that the BUI has been removed. In limited circumstances, DEQ may determine that a BUI can be removed prior to complete restoration. This could apply when natural recovery has been chosen as the preferred alternative for a specific site.

## Delisting Michigan's Areas of Concern

Michigan's delisting guidance outlines the actions necessary to formally delist an AOC and is based on 10 steps identified by U.S. EPA and the Great Lakes states in a 2001 document, *Delisting Principles and Guidelines*. When applied in Michigan, these 10 steps will include:

1. DEQ prepares a draft final RAP report in consultation with the PAC and U.S. EPA;
2. DEQ and the local PAC formally recommend to U.S. EPA that the AOC be delisted;
3. U.S. EPA consults with DEQ on the draft final RAP report and the report is revised, as needed;
4. U.S. EPA consults with the IJC on the draft final RAP report and delisting recommendation;
5. DEQ, in consultation with U.S. EPA and the PAC, holds a public meeting on the draft final RAP report;
6. DEQ prepares a final RAP report that considers comments received from agencies and the public;
7. U.S. EPA sends the final RAP report and a letter recommending that the AOC be delisted to the U.S. State Department;

8. The U.S. State Department officially removes the AOC from the list of U.S. AOCs;
9. The U.S. State Department transmits the final RAP report and formal notice that the AOC has been delisted to the IJC; and
10. All partners celebrate the delisting of the AOC.

## Special Considerations

The delisting guidance addresses special issues related to shared jurisdictions, use of special designations and the process for resolving disputes.

- **Shared jurisdictions:** Restoration targets for the binational AOCs (Detroit, St. Clair and St. Marys rivers) and the Menominee River AOC (shared with Wisconsin) must be at least functionally equivalent to Michigan's statewide restoration criteria.
- **Area of Recovery designation:** DEQ will not use this special designation in Michigan's AOCs. Incremental progress will be demonstrated by the removal of individual BUIs and biennial AOC RAP updates.
- **Delisting partial BUIs or subwatersheds:** DEQ will support delisting only for an entire BUI and the entire AOC, not subwatersheds or portions of BUIs.
- **BUI listings:** The delisting guidance identifies the official list of BUIs for each AOC for which remedial actions have been or will be developed.
- **AOC boundaries:** Official boundaries for the AOCs are those shown on U.S. EPA's AOC program website ([www.epa.gov/glnpo/aoc/](http://www.epa.gov/glnpo/aoc/)). Changes to Michigan's AOC boundaries must be documented and approved by letters from DEQ, U.S. EPA, and the local PAC.
- **Dispute resolution:** Technical issues regarding removing a BUI or delisting an AOC will be resolved by DEQ, U.S. EPA and the local PAC. Processes for delisting and dispute resolution outlined in the Four Agency Agreement apply to Michigan's three binational AOCs.

## For More Information

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Information on Michigan's Great Lakes AOC program is available online at [www.michigan.gov/deq](http://www.michigan.gov/deq), click on "water," then "Great Lakes," then "Areas of Concern."

Information is also available from the website for the Statewide Public Advisory Council for Michigan's AOC program at <http://www.glc.org/spac/>.