

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal

governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 6, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 22, 2016.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Section 52.726 is amended by adding paragraph (pp) to read as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(pp) On September 3, 2014, Illinois submitted 2011 volatile organic compounds and oxides of nitrogen emission inventories for the Illinois portions of the Chicago-Naperville, Illinois-Indiana-Wisconsin and St. Louis, Missouri-Illinois nonattainment areas for the 2008 ozone national ambient air quality standard as a revision of the Illinois state implementation plan. The emission inventories are approved as a revision of the state's implementation plan.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2014-0860; FRL 9943-31-Region 5]

Air Plan Approval; Wisconsin; Base Year Emission Inventories for the 2008 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Wisconsin Department of Natural Resources (WDNR) on November 14, 2014, to address emission inventory requirements for the Sheboygan nonattainment area (Sheboygan area) and the Wisconsin portion (Kenosha area) of the Chicago-Naperville, Illinois-Indiana-Wisconsin (Chicago-Naperville, IL-IN-WI) nonattainment area under the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard). The Clean Air Act (CAA) requires emission inventories for all ozone nonattainment areas. The emission inventories contained in Wisconsin's November 14, 2014, submission meet this CAA requirement.

DATES: This direct final rule is effective on May 6, 2016, unless the EPA receives

adverse comments by April 6, 2016. If adverse comments are received by EPA, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2014-0860 at <http://www.regulations.gov> or via email to Aburano.Douglas@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6057, Doty.Edward@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever “we,” “us,” or “our” is used, we mean the EPA. This **SUPPLEMENTARY**

INFORMATION section is arranged as follows:

- I. The 2008 Ozone NAAQS and Emission Inventory Requirements
- II. Wisconsin’s Emission Inventories
 - A. Base Year
 - B. How did the State develop the emission inventories?
- III. EPA’s Evaluation
 - A. Did the State adequately document the derivation of the emission estimates?
 - B. Did the State quality assure the emission estimates?
 - C. Did the State provide for public review of the requested SIP revision?
- IV. Final Action
- V. Statutory and Executive Order Reviews

I. The 2008 Ozone NAAQS and Emission Inventory Requirements

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). See 73 FR 16436 (March 27, 2008). The Sheboygan and Kenosha areas were designated as marginal nonattainment areas for the 2008 ozone NAAQS. See 77 FR 30088 (May 21, 2012) and 77 FR 34221 (June 11, 2012). The Sheboygan area is Sheboygan County. The Kenosha area is the portion of Kenosha County bounded by the Illinois/Wisconsin border (Kenosha County border) on the south, Lake Michigan on the east, the Kenosha County/Racine County border on the north, and the Interstate 94 (I-94) corridor (including all of the I-94 corridor) on the west. Both of these areas are classified as marginal nonattainment for the 2008 ozone standard.

CAA sections 172(c)(3) and 182(a)(1), 42 U.S.C. 7502(c)(3) and 7511a(a)(1), require states to develop and submit, as SIP revisions, emission inventories for all areas designated as nonattainment for the ozone NAAQS. An emission inventory for ozone is an estimation of actual emissions of air pollutants that contribute to the formation of ozone in an area. Ozone is a gas that is formed by the reaction of Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_x) in the atmosphere in the presence of sunlight. VOC and NO_x are referred to as ozone precursors.

Therefore, an emission inventory for ozone focuses on the emissions of VOC and NO_x. VOC is emitted by many types of pollution sources, including power plants, industrial sources, on-road and off-road mobile sources, smaller stationary sources, collectively referred to as area sources, and biogenic sources.¹ NO_x is primarily emitted by combustion sources, both stationary and mobile.

The emission inventories provide emissions data for a variety of air quality planning tasks, including establishing baseline emission levels for anthropogenic (manmade) emissions associated with ozone standard violations, calculating emission reduction targets needed to attain the NAAQS and achieving reasonable further progress toward attainment of the ozone standard (not required in the areas considered here), determining emission inputs for ozone air quality modeling analyses, and tracking emissions over time to determine progress toward achieving air quality and emission reduction goals. As stated above, the CAA requires the states to submit emission inventories for areas designated as nonattainment for ozone. For the 2008 ozone NAAQS, EPA has recommended that states submit typical summer day emission estimates for 2011 (78 FR 34178, 34190, June 6, 2013). However, EPA also allows states to submit base year emissions for other years during a recent ozone standard violation period. States are required to submit estimates of VOC and NO_x emissions for four general classes of anthropogenic sources: Stationary point sources; area sources; on-road mobile sources; and off-road mobile sources. The base year emission inventories must be submitted for ozone nonattainment within two years after EPA designates nonattainment areas for a new ozone standard.

II. Wisconsin’s Emission Inventories

Tables 1 and 2 summarize the 2011 VOC and NO_x emissions in the Wisconsin ozone nonattainment areas for a typical summer day.²

TABLE 1—SHEBOYGAN COUNTY 2011 EMISSION INVENTORY
[Tons per day]

Source type	VOC	NO _x
Point	2.63	11.73
Area	7.35	1.35
On-Road Mobile	2.49	5.18

¹ Biogenic emissions are produced by living organisms and are typically not included in the base year emission inventories, but are considered

in ozone modeling analyses, which must consider all emissions in a modeled area.

² The highest ozone concentrations are typically monitored during the summer months and, in

Wisconsin, ozone standard exceedances are typically monitored during the months of July through September.

TABLE 1—SHEBOYGAN COUNTY 2011 EMISSION INVENTORY—Continued
[Tons per day]

Source type	VOC	NO _x
Off-Road Mobile	4.36	3.26
Totals	16.83	21.52

TABLE 2—KENOSHA AREA 2011 EMISSION INVENTORY
[Tons per day]

Source type	VOC	NO _x
Point	0.70	8.80
Area	4.78	1.09
On-Road Mobile	2.14	4.67
Off-Road Mobile	2.42	2.33
Totals	10.04	16.89

A. Base Year

WDNR chose 2011 as the base year for these emission inventories, as recommended by EPA.

B. How did the State develop the emission inventories?

The point source NO_x and VOC emissions were derived from facility-reported emissions for 2011. Wisconsin requires major source facilities to report emissions annually. WDNR used seasonal process-level source activity information contained in the annual emission reports along with emission control information to calculate both the summer day emissions and the annual emissions for each facility. The source location and emissions data contained in the facility emission reports were used to determine the emissions specific to the Sheboygan and Kenosha areas.

The 2011 area source emissions were derived using the 2011 National Emissions Inventory (NEI), version 2, emission estimates for Sheboygan and Kenosha Counties. The area source emissions data have been derived for each appropriate Source Classification Code (SCC) covered by the NEI for Sheboygan and Kenosha Counties. The WDNR used various source surrogate data, such as population, land use data, and employment source sector or SCC, to allocate the area source emissions to the nonattainment portion of Kenosha County. The emission inventory documentation contained in Appendix 5 of Wisconsin's submittal includes documentation explaining how the emissions were derived for each area source type.

On-road mobile source emissions were determined using EPA's Motor Vehicle Emission Simulator (MOVES), version MOVES2010b, Vehicle Miles

Traveled (VMT) and other vehicle class-specific data supplied by the Southeastern Wisconsin Regional Planning Commission (SEWRPC), the Bay-Lake Regional Planning Commission (BLRPC), the metropolitan planning organizations that cover the two ozone nonattainment areas, and the Wisconsin Department of Transportation.

Non-road mobile source emissions were derived by dividing the various area source types into two groups: (1) Commercial marine vessels, aircraft, and railroads (collectively referred to as MAR); and (2) all other non-road source types. For the aircraft and railroad components of the MAR, the WDNR relied on the emissions for these source types contained in EPA's 2011 NEI, version 1. For commercial marine vessel emissions, the WDNR used emissions derived by the Lake Michigan Air Directors Consortium (LADCO), but used the county-specific commercial marine vessel emissions in the 2011 NEI to allocate the LADCO-supplied commercial marine vessel emissions to the Sheboygan and Kenosha ozone nonattainment areas. For the non-MAR area source emissions, the WDNR used the National Mobile Inventory Model (NMIM) to generate annual and summer day NO_x and VOC emissions for each non-road mobile source type.

To quality assure (QA) and quality check (QC) the emission estimates, the WDNR developed a quality assurance plan. This plan was applied for each source category and source type to ensure accuracy, completeness, comparability, and representativeness of the estimated emissions. One of the major quality assurance procedures employed was the comparison of the

calculated emissions to emissions data contained in the 2011 NEI.

III. EPA's Evaluation

EPA has reviewed Wisconsin's November 14, 2014, requested SIP revision for consistency with CAA and EPA emission inventory requirements. In particular, EPA has reviewed the techniques used by the WDNR to derive and quality assure the emission estimates. EPA has also determined whether Wisconsin has provided the public with the opportunity to review and comment on the development of the emission estimates and whether the State has addressed all public comments.

A. Did the State adequately document the derivation of the emission estimates?

The State documented the general procedures used to estimate the emissions for each of the major source types. The documentation of the emission estimation procedures is adequate for us to determine that Wisconsin followed acceptable procedures to estimate the emissions.

B. Did the State quality assure the emission estimates?

As noted above, WDNR developed a quality assurance plan and followed this plan during various phases of the emissions estimation and documentation process to QA and QC the emissions for completeness and accuracy. The quality assurance procedures have been determined to be adequate and acceptable. We conclude that Wisconsin has developed inventories of VOC and NO_x emissions that are comprehensive and complete.

C. Did the State provide for public review of the requested SIP revision?

WDNR notified the public of the opportunity for comment both in newspapers and on the WDNR Web site. A public hearing was held on September 25, 2014, and WDNR provided for the review of written comments received outside of the public hearing. The only comments received were those from EPA, and WDNR addressed those comments through revisions reflected in the final emission inventories and associated documentation.

IV. Final Action

We are approving a Wisconsin SIP revision submitted to address the ozone-related emission inventory requirements for the Sheboygan and Kenosha areas for the 2008 ozone NAAQS. The emission inventories we are approving into the SIP are specified in Tables 1 and 2 above. We are approving the emission inventories because they contain comprehensive, accurate, and current inventories of actual emissions for all relevant VOC and NO_x sources in accordance with CAA sections 172(c)(3) and 182(a) and because Wisconsin adopted the emission inventories after providing for reasonable public notice and a public hearing.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule is effective on May 6, 2016 without further notice unless we receive relevant adverse written comments by April 6, 2016. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document withdrawing the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective May 6, 2016.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal

governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 6, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and it shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 22, 2016.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND
PROMULGATION OF
IMPLEMENTATION PLANS**

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Section 52.2585 is amended by adding paragraph (dd) to read as follows:

§ 52.2585 Control strategy: Ozone.

* * * * *

(dd) On November 14, 2014, Wisconsin submitted 2011 volatile organic compounds and oxides of nitrogen emission inventories for the Sheboygan County and Wisconsin portion (Kenosha area) of the Chicago-Naperville, Illinois-Indiana-Wisconsin nonattainment areas for the 2008 ozone

national ambient air quality standard as a revision of the Wisconsin state implementation plan. The documented emission inventories are approved as a revision of the State's implementation plan.

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