

The owner of the bridge MBCR requested a temporary deviation from the regulations to facilitate emergency structural repairs at the bridge. Under this temporary deviation the MBCR Bridge may remain in the closed position from December 1, 2010 through April 17, 2011. The bridge can be opened for emergencies by calling Ms. Patricia Mallon, Assistant Chief of Engineering at 617-222-3617 or 617-590-9828.

The bridge seldom receives requests to open December through April and there is an alternate route for vessel traffic since the waterway has outlets to open water at both ends. Vessels that can pass under the bridge in the closed position may do so at any time.

The Gloucester Harbor Master and the local marinas were notified and no objections were received.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 1, 2010.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. 2010-31407 Filed 12-14-10; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2010-0850; FRL-9238-9]

#### Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; The Milwaukee-Racine and Sheboygan Areas; Determination of Attainment of the 1997 8-hour Ozone Standard

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is making determinations under the Clean Air Act (CAA) that the Milwaukee-Racine and Sheboygan, Wisconsin areas have attained the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS). The Milwaukee-Racine area includes Milwaukee, Ozaukee, Racine, Washington, Waukesha, and Kenosha Counties. The Sheboygan area includes Sheboygan County. The determinations are based on complete, quality-assured and certified ambient air monitoring data that show that the areas have monitored attainment of the 1997 8-

hour ozone standard for the 2006–2008 and 2007–2009 monitoring periods. Preliminary data available for 2010 indicate that the areas continue to monitor attainment. As a result of these determinations, the requirements for these areas to submit attainment demonstrations and associated reasonably available control measures (RACM), reasonable further progress plans (RFP), contingency measures, and other State Implementation Plan (SIP) revisions related to attainment of the standard are suspended for as long as the areas continue to attain the 1997 8-hour ozone standard. These determinations also suspend the requirement for EPA to promulgate attainment demonstration, RFP, and any other attainment-related Federal Implementation Plans (FIPs) for these areas.

**DATES:** This direct final rule will be effective February 14, 2011, unless EPA receives adverse comments by January 14, 2011. If adverse comments are received, 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-2010-0850, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: [mooney.john@epa.gov](mailto:mooney.john@epa.gov).
3. *Fax*: (312) 692-2551.
4. *Mail*: John M. Mooney, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery*: John M. Mooney, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2010-0850. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information

claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Kathleen D'Agostino, Environmental Engineer, at (312) 886-1767 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767, [dagostino.kathleen@epa.gov](mailto:dagostino.kathleen@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

- I. What is the background for these actions?

- II. What actions is EPA taking?
- III. What is the effect of these actions?
- IV. What is EPA's analysis of the relevant air quality data?
- V. What are EPA's determinations and their consequences?
- VI. Statutory and Executive Order Reviews

#### **I. What is the background for these actions?**

The CAA establishes a process for air quality management through the NAAQS. Before promulgation of the 8-hour standard, the ozone NAAQS was based on a 1-hour standard. On November 6, 1991 (56 FR 56693 and 56852), the Milwaukee-Racine and Sheboygan areas were designated as severe and serious nonattainment areas, respectively, under the 1-hour ozone NAAQS. The Sheboygan area was subsequently redesignated to attainment of the 1-hour standard on August 26, 1996 (61 FR 43675). The Milwaukee-Racine area was monitoring attainment of the 1-hour ozone standard by the end of the 2005 ozone season when, on June 15, 2005, EPA revoked the 1-hour ozone NAAQS. However, the Milwaukee-Racine area was still designated as nonattainment under the 1-hour ozone NAAQS.

On July 18, 1997 (62 FR 38856), EPA promulgated an 8-hour ozone standard of 0.08 parts per million parts (ppm). On April 30, 2004 (69 FR 23857), EPA published a final rule designating and classifying areas under the 8-hour ozone NAAQS. These designations and classifications became effective June 15, 2004. EPA designated as nonattainment any area that was violating the 8-hour ozone NAAQS based on the three most recent years of air quality data, 2001–2003.

The CAA contains two sets of provisions, subpart 1 and subpart 2, that address planning and control requirements for nonattainment areas. (Both are found in Title I, part D, 42 U.S.C. 7501–7509a and 7511–7511f, respectively.) Subpart 1 contains general requirements for nonattainment areas for any pollutant, including ozone, governed by a NAAQS. Subpart 2 provides more specific requirements for ozone nonattainment areas.

Under EPA's implementation rule for the 1997 8-hour ozone standard, 69 FR 23951 (April 30, 2004), an area was classified under subpart 2 based on its 8-hour ozone design value (*i.e.* the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration), if it had a 1-hour design value at the time of designation at or above 0.121 ppm (the lowest 1-hour design value in Table 1 of subpart 2) (69 FR 23954). The Milwaukee-

Racine and Sheboygan areas were designated as subpart 2, 8-hour ozone moderate nonattainment areas by EPA on April 30, 2004 (69 FR 23857 and 23947), based on air quality monitoring data from 2001–2003 (69 FR 23860).

On March 27, 2008 (73 FR 16436), EPA promulgated a revised 8-hour ozone standard of 0.075 ppm. In May 2008, states, environmental groups, and industry groups filed petitions with the United States Court of Appeals for the District of Columbia Circuit for review of the 2008 ozone standards. In March 2009, the court granted EPA's request to stay the litigation so EPA could review the standards and determine whether they should be reconsidered. On September 16, 2009, EPA announced reconsideration of the 2008 decision setting national standards for ground-level ozone. The designation process for that standard has been stayed. On January 6, 2010, EPA proposed to set the level of the primary 8-hour ozone standard within the range of 0.060 to 0.070 ppm, rather than at 0.075 ppm. EPA is working to complete reconsideration of the standard and expects thereafter to proceed with designations. The actions addressed in today's rulemaking relate only to the 1997 8-hour ozone standard.

#### **II. What actions is EPA taking?**

EPA is determining that the Milwaukee-Racine and Sheboygan 1997 8-hour ozone nonattainment areas have attained the 1997 8-hour ozone NAAQS. These determinations are based upon complete, quality-assured and certified ambient air monitoring data for the years 2007–2009 showing that the areas have monitored attainment of the 1997 8-hour ozone NAAQS. Today's rulemaking does not address requirements for the 2008 8-hour ozone NAAQS or any future revisions to these NAAQS.

#### **III. What is the effect of these actions?**

For the Milwaukee-Racine and Sheboygan areas, under the provisions of 40 CFR 51.918, these determinations would: (1) Suspend the requirements for the State to submit a SIP and/or for EPA to promulgate a FIP for an attainment demonstration and associated RACM (including reasonably available control technologies), RFP plan, contingency measures, and any other planning SIPs or FIPs related to attainment of the 1997 8-hour ozone NAAQS; (2) continue until such time, if any, that EPA subsequently determines that the area has violated the 1997 8-hour NAAQS; (3) be separate from, and not influence or otherwise affect, any future designation determination or requirements for the

areas based on the revision to the 2008 8-hour ozone NAAQS or the reconsidered 8-hour ozone NAAQS; and (4) remain in effect regardless of whether EPA designates the area as a nonattainment area for purposes of the revised or reconsidered 2008 8-hour ozone NAAQS.

If EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the Milwaukee-Racine and/or Sheboygan area has violated the 1997 8-hour ozone NAAQS, the basis for the suspension of certain requirements for that area, set forth at 40 CFR 51.918, would no longer exist, and the area would thereafter have to address pertinent requirements.

The determinations of attainment in this notice are not equivalent to redesignations to attainment under section 107(d)(3) of the CAA because we have not approved maintenance plans for the areas under section 175A of the CAA, nor have we found that the areas have met the other statutory requirements for redesignation. The designation status of each of the areas remains nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that it meets the CAA requirements for redesignation to attainment.

#### **IV. What is EPA's analysis of the relevant air quality data?**

Whether an area is considered to be attaining the 8-hour ozone NAAQS is determined in accordance with 40 CFR 50.10 and part 50, Appendix I, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the standard, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area over each year must not exceed 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, appendix I, the standard is attained if the design value is 0.084 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the EPA's Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for determining attainment.

Wisconsin has quality-assured and certified all of the ambient monitoring data for 2006–2008 and 2007–2009 in accordance with 40 CFR 58.10, and has recorded it in the AQS database. The data meet the completeness criteria in 40 CFR part 50, Appendix I, which require a minimum completeness of 75% annually and 90% over each 3-year period. Monitoring data are presented in

Table 1 below. Preliminary data available for 2010 are consistent with continued attainment.

TABLE 1—ANNUAL 4TH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATION AND 3-YEAR AVERAGES OF 4TH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS

Area	County	Monitor	2006 4th high (ppm)	2007 4th high (ppm)	2008 4th high (ppm)	2009 4th high (ppm)	2006–2008 average (ppm)	2007–2009 average (ppm)
Milwaukee-Racine	Kenosha	Pleasant Prairie 55–059–0019.	0.079	0.085	0.072	0.071	0.078	0.076
		Milwaukee	16th St. HC 55–079–0010.	0.064	0.067	0.059	0.066	0.063
	Milwaukee	WDNR SERHQ 55–079–0026.	0.068	0.075	0.063	0.067	0.068	0.068
		UWM–North 55–079–0041.	0.073	0.078	0.065	0.068	0.072	0.070
		Bayside 55–079–0085.	0.073	0.083	0.069	0.072	0.075	0.074
	Ozaukee	Grafton 55–089–0008.	0.071	0.082	0.064	0.067	0.072	0.071
		Harr. Beach 55–089–0009.	0.072	0.084	0.067	0.070	0.074	0.073
	Racine	Racine 55–101–0017.	0.071	0.077	0.065	0.071	0.071	0.071
	Washington	Slinger 55–131–0009.	0.066	0.071	0.060	0.065	0.065	0.065
	Waukesha	Waukesha 55–133–0027.	0.067	0.072	0.060	0.059	0.066	0.063
Sheboygan	Sheboygan	Kohler Andre Park 55–117–0006.	0.083	0.088	0.075	0.074	0.082	0.079

On the basis of this review, EPA has concluded that the Milwaukee-Racine area and the Sheboygan area have attained the 1997 8-hour NAAQS based on the most recent complete, quality assured 3 year period of data: 2007–2009. In addition, preliminary monitoring data for 2010 that are available to date indicate that these areas continue to attain the 1997 8-hour ozone NAAQS.

**V. What are EPA’s determinations and their consequences?**

EPA is making determinations that the Milwaukee-Racine and Sheboygan, Wisconsin areas have attained the 1997 8-hour ozone NAAQS. The determinations are based upon complete, quality-assured and certified ambient air monitoring data, which show that the areas have monitored attainment of the 1997 8-hour ozone standard for the 2006–2008 and 2007–2009 monitoring periods. Preliminary data for 2010 indicate that the areas continue to monitor attainment.

As provided in 40 CFR 51.918, the determinations of attainment for the Milwaukee-Racine and Sheboygan areas suspend the requirements for the State of Wisconsin to submit for these areas: an attainment demonstration, associated RACM, RFP plan, contingency measures, and any other planning SIPs related to attainment of the 1997 8-hour

ozone NAAQS. These determinations also suspend any requirement for EPA to promulgate FIPs for these areas deriving from the concomitant SIP obligations.

The attainment-related SIP and FIP obligations remain suspended for each area for so long as it continues to attain the 1997 8-hour ozone NAAQS or until it is redesignated for that NAAQS, at which time the obligations end. 40 CFR 51.918.

We are publishing these actions without prior proposal because we view them as noncontroversial 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 determine that the Milwaukee and/or Sheboygan area has attained the 1997 8-hour ozone standard if relevant adverse written comments are filed with respect to that area. This rule will be effective February 14, 2011 without further notice unless we receive relevant adverse written comments by January 14, 2011. If we receive such comments with respect to either the Milwaukee-Racine or the Sheboygan area, we will withdraw the action with regard to that area before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent

final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on these actions should do so at this time. Please note that if EPA receives adverse comment on a section of this rule and if that portion 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 February 14, 2011.

**VI. Statutory and Executive Order Reviews**

These actions make determinations based on air quality data, and would, if finalized, result in the suspension of certain Federal requirements. For that reason, these actions:

- Are not “significant regulatory actions” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);

- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are 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
- Do 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because a determination of attainment is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands. However, because there are tribal lands located in Milwaukee County, we provided the affected tribe with the opportunity to consult with EPA on the attainment determination. The consultation occurred on November 15, 2010. The affected tribe raised no concerns.

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**. These actions are not “major rules” 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 February 14, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of these actions 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 these direct final rules and address the comment in the proposed rulemaking. These actions may not be challenged later in proceedings to enforce their requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

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

Dated: November 24, 2010.

**Susan Hedman**,  
Regional Administrator, Region 5.

- 40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

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

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

#### Subpart YY—Wisconsin

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

##### § 52.2585 Control strategy: Ozone.

\* \* \* \* \*

(y) *Determination of attainment.* EPA has determined, as of December 15, 2010 that the Milwaukee-Racine, WI and Sheboygan, WI areas have attained the 1997 8-hour ozone standard. These determinations suspend the requirements for these areas to submit attainment demonstrations and associated reasonably available control measures (RACM), reasonable further progress plans (RFP), contingency measures, and other State Implementation Plan (SIP) revisions related to attainment of the standard for as long as the areas continue to attain

the 1997 8-hour ozone standard. These determinations also stay the requirement for EPA to promulgate attainment demonstration and RFP Federal Implementation Plans (FIPs) for these areas.

[FR Doc. 2010–31339 Filed 12–14–10; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2010–0521; FRL–9233–3]

### Revisions to the Arizona State Implementation Plan, Maricopa County

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the Maricopa County portion of the Arizona State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on September 2, 2010 and concern particulate matter (PM) emissions from fugitive dust sources such as construction sites and related activities, unpaved roads, unpaved parking lots, and disturbed soils on vacant lots. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on January 14, 2011.

**ADDRESSES:** EPA has established docket number EPA–R09–OAR–2010–0521 for this action. The index to the docket is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available in either location (*e.g.*, CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Andrew Steckel, EPA Region IX, (415) 947–4115, [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to EPA.

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