



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2012-0465; FRL-9805-6]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Wisconsin; Amendments to Vehicle Inspection and Maintenance  
Program for Wisconsin.**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a state implementation plan (SIP) revision submitted by the Wisconsin Department of Natural Resources (WDNR) on June 7, 2012, concerning the State's vehicle inspection and maintenance (I/M) program in southeast Wisconsin. The revision amends I/M program requirements in the active control measures portion of the ozone SIP to reflect changes that have been implemented at the state level since EPA fully approved the I/M program on August 16, 2001. The submittal also includes a demonstration under section 110(l) of the Clean Air Act (CAA) addressing lost emission reductions associated with the program changes.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2012-0465, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov).
3. Fax: (312)692-2450.
4. Mail: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Pamela Blakley, Chief, Control Strategies 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 AM to 4:30 PM, excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No.

EPA-R05-OAR-2012-0465. 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) website 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. For additional instructions on submitting comments, go to section I of the SUPPLEMENTARY INFORMATION section of this document.

*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 in [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 AM to 4:30 PM, Monday through Friday, excluding federal holidays. We recommend that you telephone Francisco J. Acevedo, Environmental Protection Specialist, at (312)886-6061 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Francisco J. Acevedo, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)886-6061, [acevedo.francisco@epa.gov](mailto:acevedo.francisco@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 Should I Consider as I Prepare My Comments for EPA?
- II. Background.
- III. What Changes Have Been Made to the Wisconsin I/M Program?
- IV. What Is EPA's Analysis of the State's Submittal?
  - a. Substantive I/M Requirements.
  - b. Performance Evaluation.
  - c. Demonstrating Noninterference With Attainment and Maintenance Under CAA Section 110(1).

V. What Action Is EPA Proposing to Take?

VI. Statutory and Executive Order Reviews.

**I. What Should I Consider as I Prepare My Comments for EPA?**

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date, and page number).
2. Follow directions - EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period.

**II. Background.**

The general purpose of motor vehicle I/M programs is to

reduce emissions from in-use motor vehicles in need of repairs and thereby contribute to state and local efforts to improve air quality and to attain the National Ambient Air Quality Standards (NAAQS).

Wisconsin has operated an I/M program in southeastern Wisconsin since 1984. The program is presently operating in Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Washington and Waukesha Counties. Initially, all vehicles were inspected by measuring tailpipe emission levels. Since July of 2001, all model year (MY) 1996 and later cars and light trucks have been inspected by scanning the vehicle's computerized second generation on-board diagnostic (OBDII) systems. EPA fully approved Wisconsin's I/M program on August 16, 2001, (66 FR 42949) including the program's legal authority and administrative requirements found in sections 100.20 and 285.30 of the Wisconsin Statutes and Chapters NR 485 and Trans 131 of the Wisconsin Administrative Code. As of July 2008, the program dropped tailpipe testing entirely and inspected all vehicles by scanning the OBDII systems. This change was the result of statutory changes in the State's 2007-2009 biennial budget which exempted model years of vehicles not Federally required to be equipped with the OBDII technology (MY 1995 and earlier cars and light trucks and MY 2006 and earlier heavy trucks).

### **III. What Changes Have Been Made to the Wisconsin I/M Program?**

The Wisconsin I/M SIP revision submitted on June 7, 2012, reflects several changes to the approved program. The most significant changes to the Wisconsin I/M program took effect beginning on July 2008 and include:

- The elimination of I/M program testing requirements for non-OBDII equipped vehicles. This change impacted MY 1968 through 1995 vehicles. These vehicles were previously subject to tailpipe testing.

- The elimination of I/M program testing requirements for gasoline vehicles with gross vehicle weight rating (GVWR) between 8,500 to 10,000 pounds (lbs). This change impacted MY 1996 through 2006 vehicles. Previously, all vehicles up to 10,000 lbs. were subject to testing.
- The addition of I/M program testing requirements for gasoline vehicles with a GVWR of 10,000 to 14,000 lbs. This change impacted MY 2007 and later vehicles.
- The addition of I/M program testing requirements for diesel vehicles with a GVWR up to 14,000 lbs. This change impacted MY 2007 and later vehicles.<sup>1</sup>

In addition to the changes discussed above, the June 7, 2012, submittal included a number of minor revisions to the program that do not have a significant impact on overall program operations or the emissions reductions associated with it. A full list of the changes submitted by Wisconsin for EPA approval include: Revisions to Section 100.20, Wisconsin Statutes (2001 Wisconsin Act 16, published August 31, 2001; 2003 Wisconsin Act 220, published April 22, 2003; 2005 Wisconsin Act 49, published

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<sup>1</sup>The purpose of adding I/M testing requirements for heavier gasoline and diesel vehicles was to offset any lost emission reductions from the elimination of tailpipe testing.

October 27, 2005; 2007 Wisconsin Act 20, published October 26, 2007; 2009 Wisconsin Act 228, published May 19, 2010).

Revisions to Section 285.30, Wisconsin Statutes (2003 Wisconsin Act 192, published April 21, 2004; 2007 Wisconsin Act 20, published October 26, 2007; 2007 Wisconsin Act 33, published December 3, 2007; 2009 Wisconsin Act 157, published March 24, 2010; 2009 Wisconsin Act 311, published May 26, 2010).

Revisions to Wisconsin Administrative Code, Chapter NR 485 (Clearinghouse Rule CR 05-072 effective April 1, 2006; Clearinghouse Rule CR 10-049 effective December 1, 2010).

Revisions to Wisconsin Administrative Code, Chapter Trans 131 (Clearinghouse Rule CR 01-121 effective April 1, 2002; Clearinghouse Rule CR 07-114 effective July 1, 2008; Clearinghouse Rule CR 10-088 effective January 1, 2011).

To support the changes outlined above, the revision also included a summary of the MOVES2010a modeling inputs used to calculate program benefits; a demonstration for meeting the modeling requirements for EPA's alternate low enhanced I/M performance standard; a section 110(l) demonstration that includes offset emission credits; and an emissions inventory evaluation by Sonoma Technology, Inc. WDNR held a public hearing on the Wisconsin I/M SIP revision on May 7, 2012, in Milwaukee, Wisconsin and allowed for written public comments until May 11, 2012. Full copies of the SIP revision are located

in EPA's docket.

#### **IV. What Is EPA's Analysis of the State's Submittal?**

##### **a. Substantive I/M requirements**

EPA's requirements for basic and enhanced I/M programs are found in 40 CFR part 51, subpart S. The I/M SIP revision submitted by Wisconsin must be consistent with these requirements and must meet EPA's requirements for enforceability and section 110(l) requirements of the CAA. The specific aspects of I/M affected by the submitted revisions to the Wisconsin I/M program include vehicle coverage and exemptions, test procedures and standards, test equipment, waivers and compliance, enforcement against contractors, inspector training and licensing or certification, and the performance standard evaluation.

##### **1. Vehicle Coverage—40 CFR 51.356**

Under 40 CFR 51.356, the performance standard for enhanced I/M programs (including alternate low enhanced programs) assumes coverage of all MY 1968 and later light duty vehicles and trucks up to 8,500 pounds GVWR, and includes vehicles operating on all fuel types. Vehicles registered or required to be registered within the I/M program area boundaries, and fleets primarily operated within the I/M program area boundaries and belonging to the covered model years and vehicle classes comprise the subject vehicles. Under EPA regulations, other levels of coverage may

be approved if the necessary emission reductions are achieved. The Wisconsin I/M program originally approved in the SIP by EPA, required testing of MY 1968 and later gasoline vehicles with a GVWR up to 10,000 lbs. Vehicles were first subject to the requirements when the vehicles were two model years old and every two years thereafter. The I/M SIP revision amends these provisions to eliminate emission inspection of vehicles MY 1995 and earlier, and exempts from testing off-road utility vehicles, lightweight utility vehicles, and low-speed vehicles. The I/M SIP revision adds emission inspection requirements for vehicles MY 2007 and later with a GVWR up to 14,000 lbs., while limiting emission inspection of vehicles MY 2006 and earlier to only those with a GVWR up to 8,500 lbs. Finally, the I/M SIP revision adds emission inspection of vehicles MY 2007 and later that are powered by diesel fuel. Under the revised requirements, vehicles are first subject to the requirements when vehicles are four model years old and every two years thereafter. However, as described in section IV.b below, EPA concludes that the state has demonstrated that it meets the alternate low enhanced performance standards with the revised program changes. Thus, the changes in vehicle coverage under the revised requirements are acceptable under 40 CFR 51.356.

## 2. Test Procedures-Standards-40 CFR 51.357

Under 40 CFR 51.357, I/M programs must establish and implement written test procedures and pass/fail standards for each model year and vehicle type. The Wisconsin I/M program originally approved in the SIP by EPA already contains detailed procedures for connecting to the OBDII system in 1996 and newer vehicles, information on readiness codes for OBDII tests, and pass/fail standards for OBDII equipped vehicles. Under the revised requirements Wisconsin establishes OBDII as the primary testing method and eliminates the previously established idle and transient tailpipe testing methods. The changes repeal references in the requirements relating to these now eliminated testing methods including emission equipment specifications and inspection requirements. In addition, the revised requirements eliminate the evaporative emission test also known as the "gas cap test", which was previously required but is no longer necessary with OBDII technology. This part of the submittal meets the requirements of 40 CFR 51.357 and 40 CFR 51.358 of the Federal I/M regulation.

### 3. Test Equipment-40 CFR 51.358

Computerized test systems are required for performing any measurement on subject vehicles. The Federal I/M regulation requires that the state SIP submittal include written technical specifications for all test equipment used in the program. The specifications must describe the analysis process, the necessary

test equipment, the required features, and written acceptance testing criteria and procedures. The Wisconsin I/M program originally approved in the SIP by EPA already contains detailed technical specifications for program test equipment that mirror EPA's requirements and guidance. As mentioned before, the revised changes repeal references in the requirements relating to idle and transient tailpipe testing methods, including emission equipment specifications and inspection requirements retaining the requirements and specifications for OBDII testing. This part of the submittal continues to meet the requirements of 40 CFR 51.358 of the Federal I/M regulation.

#### 4. Waivers and Compliance Via Diagnostic Inspection—40 CFR 51.360

The Federal I/M regulation allows for the issuance of a waiver, which is a form of compliance with the program requirements that allows a motorist to comply without meeting the applicable test standards. An expenditure of at least \$450 in repairs, adjusted annually to reflect the change in the Consumer Price Index (CPI) as compared to the CPI for 1989, is required in order to qualify for a waiver in enhanced I/M areas. An expenditure of at least \$75 for pre-1981 vehicles and \$200 for 1981 and newer vehicles is required in order to qualify for a waiver in basic I/M areas. Waivers can only be issued after a vehicle has failed a retest performed after all qualifying

repairs have been made. Any available warranty coverage must be used to obtain repairs before expenditures can be counted toward the cost limit. Tampering related repairs must not be applied toward the cost limit. Repairs must be appropriate to the cause of the test failure. Under the I/M program approved in the SIP, Wisconsin established waiver limits in section 110.20(13) of the Wisconsin Statutes and in NR 485.045(1) requiring an expenditure of at least \$75 for pre-1981 vehicles and \$200 for 1981 and newer vehicles in order to qualify for a waiver in Sheboygan County and an expenditure of at least \$450 in repairs, adjusted annually to reflect the change in the CPI as compared to the CPI for 1989, as established by the EPA, for the remaining I/M counties. Sheboygan County had a lower repair cost limits since its nonattainment classification established in 1992 was at a lower level than that for the other six counties. In the Wisconsin I/M SIP revision, the requirements have expanded the coverage of the inflation adjusted repair cost limit in NR 485.045 to all counties subject to the I/M program and to vehicles with OBDII systems, thereby raising the lower limits for Sheboygan County. In addition, the revision clarifies that to obtain a waiver of compliance on the basis of statutory repair cost limit, a vehicle must pass a waiver emission equipment inspection. This part of the submittal continues to meet the requirements of 40 CFR 51.360.

5. Enforcement Against Contractors, Stations and  
Inspectors—40 CFR 51.364 and Inspector Training and  
Licensing or Certification—40 CFR 51.367

The Federal I/M regulation requires all inspectors to be formally trained and licensed or certified to perform inspections. In addition, the regulation requires the establishment of minimum penalties for violations of program rules and procedures that can be imposed against stations, contactors and inspectors. The state must include in the SIP the legal authority for establishing and imposing penalties, civil fines, license suspensions and revocations. The Wisconsin I/M program originally approved in the SIP by EPA already includes the legal authority that addresses these requirements. However, the Wisconsin I/M SIP revision includes amendments to the legal authority that also allow the State to establish methods for emission testing and delivery of testing services, in addition to the previously established method of a single contractor. It establishes as the service delivery method a possibility of contractors who perform the test at their own facilities, or by subcontracted testing at subcontractors' facilities, or at self-service facilities where a vehicle owner may test the vehicle. The revisions expands the inspector training and licensing requirements to include all employees of any authorized inspection facility subcontractor and expands the

penalty and audit requirements originally approved by EPA to include other authorized testing facilities. This part of the submittal meets the requirements of 40 CFR 51.364 and 51.365.

**b. Performance Evaluation**

As part of the June 7, 2012, I/M SIP revision, WDNR provided an updated performance evaluation using the EPA's motor vehicle emissions simulator model, MOVES2010a<sup>2</sup>. The updated performance evaluation included a summary report outlining the modeling results and paper copies of the MOVES2010a modeling input files. The purpose of the updated performance evaluation is to demonstrate that Wisconsin's vehicle I/M program, as amended, would continue to meet the Federal enhanced I/M performance standard in southeast Wisconsin. The results of WDNR's analysis are summarized in Tables 1 and 2 below, which show that the emissions reductions achieved by the Wisconsin I/M program, as amended, are higher than those achieved under the performance standards. The amended Wisconsin I/M program thus

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<sup>2</sup> EPA announced the release of MOVES2010 in March 2010 (75 FR 9411). EPA subsequently released two minor model revisions: MOVES2010a in September 2010 and MOVES2010b in April 2012. Both of these minor revisions enhance model performance and do not significantly affect the criteria pollutant emissions results from MOVES2010.

continues to achieve greater emissions reductions than the Federal model program because the Wisconsin I/M program includes elements that go beyond Federal I/M requirements.

Table 1 - Summary of Results of WDNR's Alternative Low Enhanced Performance Modeling for Six County Milwaukee-Racine Nonattainment Area (Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha Counties)

Year	2002		2009		2012		2015	
	VOC <sup>3</sup>	NO <sub>x</sub> <sup>4</sup>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>
<b>I/M Performance Standard Benefits (grams/mile)</b>	0.071	0.040	0.039	0.009	0.025	0.004	0.017	0.002
<b>Actual I/M Program Benefits (grams/mile)</b>	0.134	0.193	0.060	0.097	0.037	0.063	0.027	0.041

Table 2 - Summary of Results of WDNR's Alternative Low Enhanced Performance Modeling for Sheboygan County Nonattainment Area

Year	2002		2009		2012		2015	
	VOC	NO <sub>x</sub>						
<b>I/M Performance Standard Benefits (grams/mile)</b>	0.080	0.044	0.044	0.009	0.030	0.005	0.020	0.002
<b>Actual I/M Program Benefits (grams/mile)</b>	0.113	0.165	0.065	0.095	0.044	0.069	0.032	0.045

Based on our review of the I/M SIP revision, EPA finds that WDNR's performance standard evaluation and use of the alternate

<sup>3</sup> Volatile organic compound

<sup>4</sup> Oxides of nitrogen

low enhanced I/M performance standard to be acceptable. EPA also finds that the Wisconsin I/M program, as amended, exceeds the alternate low enhanced performance standard in both the Milwaukee-Racine and Sheboygan County nonattainment areas as required under 40 CFR 51.351.

**c. Demonstrating Noninterference With Attainment and Maintenance Under CAA Section 110(1)**

Revisions to SIP-approved control measures must meet the requirements of CAA section 110(1) to be approved by EPA.

Section 110(1) states:

"The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act."

EPA interprets section 110(1) to apply to all requirements of the CAA and to all areas of the country, whether attainment, nonattainment, unclassifiable, or maintenance for one or more of the six criteria pollutants. EPA also interprets section 110(1) to require a demonstration addressing all pollutants whose emissions and/or ambient concentrations may change as a result of the SIP revision. In the absence of an attainment demonstration, to demonstrate no interference with any applicable NAAQS or requirement of the CAA under section 110(1),

EPA believes it is appropriate to allow states to substitute equivalent emissions reductions to compensate for any change to a SIP approved program, as long as actual emissions in the air are not increased. "Equivalent" emissions reductions mean reductions which are equal to or greater than those reductions achieved by the control measure approved in the active portion of the SIP. In order to show that compensating emissions reductions are equivalent, modeling or adequate justification must be provided. The compensating, equivalent reductions must represent actual, new emissions reductions achieved in a contemporaneous time frame to the change of the existing SIP control measure, in order to preserve the status quo level of emission in the air. In addition to being contemporaneous, the equivalent emissions reductions must also be permanent, enforceable, quantifiable, and surplus to be approved into the SIP.

The Wisconsin I/M SIP revision includes a 110(l) demonstration that uses equivalent emissions reductions to compensate for emission reduction losses resulting from changes to the SIP approved I/M program in southeast Wisconsin. The submittal indicates that WDNR used the latest version of EPA's motor vehicle emissions model program, MOVES2010a, to estimate the emissions effects of the program changes. Based on our review of the information provided, EPA finds that WDNR used

reasonable methods and appropriate models in estimating the emissions effects of the program changes. WDNR's MOVES modeling shows that the changes to the Wisconsin I/M program result in fewer reductions than would have otherwise been obtained from the pre-2008 I/M program approved in the SIP by EPA. Table 3 below summarizes WDNR's emissions calculations comparing the current program to the SIP approved I/M program in units of tons per summer weekday (tpswd) and highlights the emissions difference that needs to be addressed as part of the 110(l) demonstration.

Table 3 - (SIP I/M Program vs. Current I/M Program)

YEAR	SIP I/M Program		Revised I/M Program		Emissions Difference	
	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>
2009	4.55	6.53	3.47	5.59	1.08	0.94
2012	3.55	4.92	2.31	3.97	1.24	0.95
2015	2.59	3.14	1.76	2.66	0.83	0.48
2018	1.88	2.06	1.46	1.85	0.42	0.21
2022	1.59	1.49	1.27	1.35	0.32	0.14

The Wisconsin I/M program reduces emissions of VOC and NO<sub>x</sub>. VOC and NO<sub>x</sub> are contributors to the formation of ground-level ozone and fine particulate matter. Thus, the increase in VOC and NO<sub>x</sub> needs to be offset with equivalent (or greater) emissions

reductions from another control measure in order to demonstrate non-interference with the 8-hour ozone and particulate matter (PM<sub>2.5</sub>) NAAQS. Although the program also results in carbon monoxide (CO) emissions reductions, substitute CO emissions reductions are not needed for this demonstration, because southeast Wisconsin is attaining the CO NAAQS and CO levels in the area are well below the standard. WDNR has estimated that the 10.13 tpswd of CO lost from the I/M program changes in 2012, the year where the amended changes have the greatest emission impact, represent only 0.98 percent of the total CO emissions inventory in the region and it is unlikely that the amendments to the Wisconsin I/M program will interfere with the area's ability to continue to attain the CO NAAQS.

To address the projected loss of VOC and NO<sub>x</sub> emission reductions, WDNR reviewed its records of permitted emissions sources in southeast Wisconsin and identified those sources that have ceased operation since the Wisconsin I/M program changes have taken place. WDNR identified eleven facilities (See table 4) in the 6 County Milwaukee-Racine (Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha Counties) and Sheboygan County nonattainment areas that have permanently closed and have expired permits that have been revoked. The expiration and revocation of these sources' permits allows the State to use the emission credits associated with them for other purposes under

the SIP and makes such reductions permanent and enforceable.

WDNR accounted for 506.47 tons of VOC per year and 72.71 tons of NO<sub>x</sub> per year based on maximum annual reported emissions from 2005 through 2009.

Table 4 - NO<sub>x</sub> and VOC Emissions from Closed Facilities in southeast Wisconsin.

Name	FID	Date Closed	Emission Reductions	
			VOC (tons)	NO <sub>x</sub> (tons)
INPRO CORPORATION	268165150	06/30/09	21.33	0.00
PHOENIX COLOR CORPORATION	241227910	08/31/11	07.36	0.08
MIDWEST COMPOSITE TECHNOLOGIES, INC	268270750	12/31/10	19.26	01.28
ROCK TENN CONVERTING COMPANY	241017920	06/30/11	24.35	0.98
CHARTER WIRE DIVISION COMPANY	241041130	12/31/09	37.70	0.00
GREDE FOUNDRIES INC.- MILWAUKEE ALLOY	241027600	11/30/07	34.90	1.84
MILWAUKEE GRAY IRON, LLC.	241006370	12/31/08	53.50	31.29
DELPHI ENERGY & CHASSIS SYSTEMS	241045750	06/10/10	0.76	19.73
VIASYSTEMS MILWAUKEE, INC.	241116700	01/01/09	19.10	3.44
S.C JOHNSON & SON-WAXDALE/POLYMER	252236380	04/01/10	11.40	4.26
MOMENTIVE SPECIALITY CHEMICALS, INC. (LAWTER INTERNATIONAL, INC.)	230089090	03/27/09	276.81	9.81
<b>TOTAL SIP CREDITS FROM SHUTDOWN FACILITIES</b>			506.47	72.71

In addition, EPA policy allows for substitution between VOC

and NO<sub>x</sub> emissions in its guidance on reasonable further progress. This guidance recommends that states assume, as an approximation, that equivalent percent changes in the area's inventory for the respective pollutant yield an equivalent change in ozone levels. For example, decreasing area NO<sub>x</sub> emissions by 3 percent would have the same effect as decreasing area VOC emissions by 3 percent. Stated another way, if an area has twice as many tons of NO<sub>x</sub> emissions as VOC emissions, then 2 tons of NO<sub>x</sub> emissions would be assumed to have the same effect on ozone as 1 ton of VOC emissions. Following this approach WDNR used a 4 to 1 NO<sub>x</sub> to VOC conversion ratio based on a top-down evaluation performed by Sonoma Technology, Inc. and outlined in a report dated May 2011, entitled "A Top-Down Emissions Inventory Evaluation for the Upper Midwest" using 2005 and 2008 emissions inventories provided by the Lake Michigan Air Directors Consortium.

Table 5 below summarizes WDNR's I/M emissions make-up demonstration. The table specifically highlights the annual emissions shortfall that has taken place since the Wisconsin I/M program changes occurred and outlines the amount of VOC and NO<sub>x</sub> emission credits that are being used to cover the shortfall using the VOC to NO<sub>x</sub> substitution approach discussed above. Based on the use of permanent, enforceable, contemporaneous, surplus emissions reductions achieved through the shutdown of

permitted emissions sources, EPA believes that the revisions to the Wisconsin I/M program do not interfere with southeast Wisconsin's ability to demonstrate compliance with the 8-hour ozone and PM<sub>2.5</sub> NAAQS.

Table 5 - I/M Emissions Make-Up Demonstration

YEAR	MOVES Emissions Shortfall		SIP Credits from Shutdown Facilities		Trading VOC Emissions for NO <sub>x</sub> Emissions <sup>5</sup>		Revised SIP Credits from Shutdown Facilities		Difference (Shortfall - Credits) <sup>6</sup>	
	VOC (tons)	NO <sub>x</sub> (tons)	VOC (tons)	NO <sub>x</sub> (tons)	VOC (tons)	NO <sub>x</sub> (tons)	VOC (tons)	NO <sub>x</sub> (tons)	VOC (tons)	NO <sub>x</sub> (tons)
2009	341.18	302.15	455.66	63.60	70.00	280.00	385.66	343.60	-44.47	-41.45
2012	394.45	306.29	506.47	72.71	70.00	280.00	436.47	352.71	-42.02	-46.42
2015	262.29	154.04	506.47	72.71	70.00	280.00	436.47	352.71	-174.18	-198.66
2018	134.04	66.46	506.47	72.71	70.00	280.00	436.47	352.71	-302.43	-286.25
2022	103.41	45.37	506.47	72.71	70.00	280.00	436.47	352.71	-333.05	-307.34

EPA also examined whether the amendments to the approved I/M program in southeast Wisconsin have interfered with attainment of other air quality standards. Southeast Wisconsin is designated attainment for all other standards including sulfur dioxide and nitrogen dioxide. EPA has no reason to believe that the amendments to the approved I/M program in

<sup>5</sup> 4:1 VOC to NO<sub>x</sub> Ratio (*i.e.*, 1 ton of VOC = 4 tons of NO<sub>x</sub>)

<sup>6</sup> Negative numbers indicate that the emissions shortfall has been adequately covered.

southeast Wisconsin have caused or will cause the area to become nonattainment for any of these pollutants. In addition, EPA believes that the amendments to the approved I/M program in southeast Wisconsin will not interfere with the area's ability to meet any other CAA requirement.

Based on the above discussion and the state's 100(l) demonstration, EPA believes that the changes to the Wisconsin I/M program would not interfere with attainment or maintenance of any of the NAAQS in both the Milwaukee-Racine and Sheboygan County nonattainment areas and would not interfere with any other applicable requirement of the CAA, and thus, are approvable under CAA section 110(l).

#### **V. What Action Is EPA Taking?**

EPA is proposing to approve the revisions to the Wisconsin ozone SIP submitted on June 7, 2012, concerning the I/M program in southeast Wisconsin. EPA finds that the revisions meet all applicable requirements and will not interfere with reasonable further progress or attainment of any of the NAAQS.

#### **VI. 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Public Law 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations,  
Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: April 12, 2013.

Susan Hedman,  
Regional Administrator, Region 5.

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