



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2019-0699; FRL-10009-87-Region 5]

**Air Plan Approval; Wisconsin; Second Maintenance Plans for 1997
Ozone NAAQS; Door County, Kewaunee County, Manitowoc County and
Milwaukee-Racine Area**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Wisconsin State Implementation Plan (SIP). On December 13, 2019, the Wisconsin Department of Natural Resources (WDNR) submitted the State's plans for maintaining the 1997 ozone National Ambient Air Quality Standard (NAAQS or standard) in the following areas: Kewaunee County, Door County, Manitowoc County, and Milwaukee-Racine area (Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha counties). EPA is approving these maintenance plans because they provide for the maintenance of the 1997 ozone NAAQS through the end of the second 10-year maintenance period. This action makes certain commitments related to maintenance of the 1997 ozone NAAQS in these areas federally enforceable as part of the Wisconsin SIP. EPA proposed to approve this action on March 24, 2020 and received no adverse comments.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2019-0699. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or 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 and facility closures due to COVID 19. We recommend that you telephone Emily Crispell, Environmental Scientist, at (312) 353-8512 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Emily Crispell, Environmental Scientist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8512, crispell.emily@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. Background Information.

On March 24, 2020, EPA proposed to approve the 1997 ozone NAAQS maintenance plans for the Door County, Kewaunee County, Manitowoc County, and Milwaukee-Racine areas (85 FR 16590). An explanation of the Clean Air Act (CAA) requirements, a detailed analysis of the revisions, and EPA's reasons for proposing approval were provided in the proposed rulemaking and will not be restated here. The public comment period for this proposed rule ended on April 23, 2020. EPA received no comments on the proposal.

II. Final Action.

EPA is approving the Kewaunee County, Door County and Manitowoc County, and the Milwaukee-Racine area second maintenance plans for the 1997 Ozone NAAQS, submitted by WDNR on December 13, 2019, as a revision to the Wisconsin SIP. These second maintenance plans are designed to keep the Kewaunee County area in attainment of the 1997 ozone NAAQS through 2028, Door County and Manitowoc County in attainment of the 1997 ozone NAAQS through 2030, and the Milwaukee-Racine area in attainment of the 1997 ozone NAAQS through 2032.

III. 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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, 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 **[insert date 60 days after date of publication in the Federal Register]**. 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. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 26, 2020.

Cheryl Newton,
Deputy Regional Administrator, Region 5.

Accordingly, 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 (kk) to read as follows:

§ 52.2585 Control strategy: Ozone.

* * * * *

(kk) *Second maintenance plan.* Approval - On December 13, 2019 Wisconsin submitted 1997 Ozone NAAQS second maintenance plans for the Kewaunee County, Door County, Manitowoc County, and Milwaukee-Racine areas. These second maintenance plans are designed to keep the Kewaunee County area in attainment of the 1997 ozone NAAQS through 2028, Door County and Manitowoc County in attainment of the 1997 ozone NAAQS through 2030, and the Milwaukee-Racine area in attainment of the 1997 ozone NAAQS through 2032.

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