

(ii) For the control of postoperative pain and inflammation associated with orthopedic surgery in dogs weighing 4 or more pounds (1.8 kg).

\* \* \* \* \*

Dated: March 8, 2003.

**Stephen F. Sundlof,**

*Director, Center for Veterinary Medicine.*

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BILLING CODE 4160-01-S

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[WI114-01-7344a, FRL-7484-2]

#### Approval and Promulgation of Air Quality Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Wisconsin

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is making a determination that Manitowoc and Door Counties in Wisconsin have attained the one-hour ozone National Ambient Air Quality Standard (NAAQS), and we are approving the State of Wisconsin's request to redesignate Manitowoc and Door Counties to attainment for ground level ozone. In approving this redesignation request, we are also approving the State's plan for maintaining the one-hour ozone standard for the next 10 years as a revision to the Wisconsin State Implementation Plan (SIP). We are notifying the public that we believe the motor vehicle emissions budgets for volatile organic compounds (VOC) and oxides of nitrogen (NO<sub>x</sub>) in the maintenance plan for Manitowoc and Door Counties are adequate for conformity purposes and approvable as part of the maintenance plan. In this direct final rule, we are also approving a 1999 periodic inventory for the Milwaukee-Racine ozone nonattainment area. The Wisconsin Department of Natural Resources (WDNR) submitted the redesignation request and SIP revisions on January 28, 2003, and submitted additional information on February 5, 2003 and February 27, 2003.

**DATES:** This rule is effective on June 16, 2003, unless EPA receives adverse written comments by May 19, 2003. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** You may inspect copies of the documents relevant to this action during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Kathleen D'Agostino at (312) 886-1767 before visiting the Region 5 office.

Send written comments to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767.

**SUPPLEMENTARY INFORMATION:** This Supplementary Information section is organized as follows:

- I. What Has Wisconsin Submitted?
  - A. Redesignation of Manitowoc and Door Counties and SIP Revision for Maintaining the One-Hour Ozone Standard
    1. Why Has the State Made this Submission?
    2. What Criteria Are EPA Using in Reviewing the State's Submission?
    3. Is the State's Submission Consistent With the Clean Air Act?
  - B. 1999 Periodic Emissions Inventory for the Milwaukee-Racine Area
- II. What Action Is EPA Taking?
- III. Is This Action Final, or May I Submit Comments?
- IV. What Statutory and Executive Order Reviews Did EPA Conduct?

#### I. What Has Wisconsin Submitted?

On January 28, 2003, the WDNR submitted a revision to its SIP for ozone. Additional information pertaining to the SIP was submitted on February 5, 2003 and February 27, 2003. This SIP revision contained four components: (1) A request to redesignate Manitowoc and Door Counties to attainment for ozone and a plan to ensure maintenance of the ozone standard through 2013, (2) the 1999 periodic inventory for the Milwaukee-Racine area, (3) maintenance plan updates for Sheboygan and Kewaunee Counties, and (4) new transportation conformity budgets based on the MOBILE6 emissions model for the Milwaukee-Racine and Sheboygan areas. This direct final action will address the redesignation request and maintenance plan for Manitowoc and Door Counties and the 1999 periodic inventory for the Milwaukee-Racine area. The maintenance plan updates for

Kewaunee and Sheboygan Counties and the new transportation conformity budgets for the Milwaukee-Racine and Sheboygan areas will be addressed in a separate action.

#### A. Redesignation of Manitowoc and Door Counties and SIP Revision for Maintaining the One-Hour Ozone Standard

##### 1. Why Has the State Made This Submission?

In accordance with requirements of the Clean Air Act as amended in 1990 (Act), Manitowoc and Door Counties were designated as ozone nonattainment areas on November 6, 1991 (56 FR 56850). At that time Manitowoc was classified as a moderate ozone nonattainment area and Door County was classified as a rural transport marginal ozone nonattainment area. The nonattainment designations were based on monitored violations of the NAAQS for ozone.

Recent air quality data shows that both counties are attaining the ozone NAAQS. Therefore, on January 28, 2003, the WDNR submitted a request to redesignate the areas to attainment for ozone and a maintenance plan to ensure attainment through 2013.

##### 2. What Criteria Are EPA Using in Reviewing the State's Submission?

The Act establishes the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation providing that:

(1) The Administrator determines that the area has attained the NAAQS;

(2) The State containing such area has met all requirements applicable to the area under section 110 and Part D;

(3) The Administrator has fully approved the applicable implementation plan for the area under section 110(k);

(4) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; and

(5) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A.

The EPA provided guidance on redesignation in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, on April 16, 1992 (57 FR 13498) and supplemented on April 28, 1992 (57 FR 18070). The

EPA has provided further guidance on processing redesignation requests in the following documents:

(1) "Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994.

(2) "Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas," D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993.

(3) "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992," Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993.

(4) "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act Deadlines," John Calcagni, Director, Air Quality Management Division, October 28, 1992.

(5) "Procedures for Processing Requests to Redesignate Areas to

Attainment," John Calcagni, Director, Air Quality Management Division, September 4, 1992.

(6) "Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations," G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992.

(7) State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 (57 FR 13498), April 16, 1992.

3. Is the State's Submission Consistent With the Clean Air Act?

The following paragraphs discuss each of these criteria with respect to Wisconsin's request to redesignate Manitowoc and Door Counties to attainment for ozone:

- a. The area has attained the applicable NAAQS;
- b. The area has met all relevant requirements under section 110 and part D of the Act;
- c. The area has a fully approved SIP under section 110(k) of the Act;
- d. The air quality improvement is permanent and enforceable;
- e. The area has a fully approved maintenance plan pursuant to section 175A of the Act.

a. Attainment of the Ozone NAAQS

According to the September Calcagni memorandum, for ozone, an area is considered attaining the NAAQS if there are no violations, as determined in accordance with the regulation codified at 40 CFR 50.9, based on three consecutive calendar years of complete, quality assured monitoring data. A violation occurs when the ozone air quality monitoring data show greater than one (1.0) average expected exceedance per year at any site in the area. An exceedance occurs when the maximum hourly ozone concentration exceeds 0.124 parts per million (ppm). The data should be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the Aerometric Information Retrieval System (AIRS) so that it is available to the public for review.

The Wisconsin request is based on an analysis of ozone air quality data from 1999–2002 as reported in AIRS. The State collected this data in an EPA approved, quality assured, National Air Monitoring System monitoring network. Table 1 below summarizes this air quality data.

TABLE 1.—AMBIENT AIR QUALITY MONITORING DATA FOR 1999–2002 EXTRACTED FROM AIRS (PPM)

Site ID	Site name	County	Year	1st Max	2nd Max	3rd Max	4th Max	No. exceed	3 yr avg
55-029-0004 .....	Newport .....	Door .....	1999	.123	.112	.109	.109	0	.....
			2000	.108	.095	.095	.092	0	.....
			2001	.125	.113	.109	.107	1	0.3
			2002	.113	.110	.108	.100	0	0.3
55-071-0004 .....	Collins .....	Manitowoc .....	1999	.122	.109	.101	.097	0	.....
			2000	.091	.090	.080	.078	0	.....
			2001	.112	.112	.109	.107	0	0
			2002	.105	.098	.093	.091	0	0
55-071-0007 .....	Manitowoc .....	Manitowoc .....	1999	.130	.115	.107	.106	1	.....
			2000	.111	.092	.092	.091	0	.....
			2001	.120	.110	.109	.108	0	0.3
			2002	.101	.100	.099	.095	0	0

During the 1999–2002 time period, the Newport monitor in Door county recorded only one exceedance of the ozone NAAQS, resulting in a three year average of 0.3 exceedances per year for both 1999–2001 and 2000–2002. During the 1999–2002 time period, the Collins monitor in Manitowoc County recorded no exceedances of the ozone NAAQS, and the Manitowoc monitor in Manitowoc county recorded only one exceedance of the ozone NAAQS. For Manitowoc County, this resulted in a three year average of 0.3 exceedances per year for 1999–2001 and 0 exceedances per year for 2000–2002. The data demonstrates that the areas are

monitoring attainment of the 1-hour ozone NAAQS.

As a result, the areas meet the first statutory criterion for redesignation to attainment of the ozone NAAQS. The State has committed to continue monitoring in the areas in accordance with 40 CFR part 58. (If, however, complete quality assured data show violations of the ozone NAAQS before the final EPA action on this redesignation, the area(s) will no longer qualify for redesignation).

b. Meeting Applicable Requirements of Section 110 and Part D

In November 1991, Manitowoc and Door Counties were designated nonattainment for ozone and classified as moderate and rural transport (marginal) areas, respectively. As a result of this designation, the WDNR was required to submit State Implementation Plans (SIP) that meet the requirements of the Act and demonstrate attainment and maintenance of the ozone NAAQS.

The status of all required SIP elements follows:

## Section 110 Requirements

Section 110(a)(2) of the Act lists general elements to be included in each SIP after adoption by the State and reasonable notice and public hearing. The elements include, but are not limited to, provisions for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; implementation of a permit program as required in Parts C (prevention of significant deterioration (PSD)) and D (New Source Review (NSR)) of the Act; criteria for stationary source emission control measures, monitoring, and reporting; provisions for modeling; and provisions for public and local agency participation. For purposes of redesignation, EPA reviewed the Manitowoc and Door county SIPs and determined that the individual SIPs are consistent with the requirements of section 110 of the Act.

## Part D Requirements

Before EPA may redesignate Manitowoc and Door Counties to attainment, the SIPs must have fulfilled the applicable requirements of Part D. Under Part D, an area's classification determines the requirements to which it is subject. Subpart 1 of Part D sets forth the basic nonattainment requirements applicable to all nonattainment areas. Subpart 2 of Part D establishes additional requirements for ozone nonattainment areas classified under table 1 of section 181(a). As described in the General Preamble, specific requirements of subpart 2 may override subpart 1's general provisions (57 FR 13501 (April 16, 1992)). On November 6, 1991 (56 FR 56694), Manitowoc and Door Counties were designated as nonattainment and classified as moderate and rural transport (marginal), respectively. Therefore, to be redesignated to attainment, the State must meet the applicable requirements of subpart 1 of Part D—specifically sections 172 and 176, as well as the applicable requirements of subpart 2 of Part D.

## Subpart 1 of Part D

Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but no later than 3 years from the date of the nonattainment designation. As discussed below, Wisconsin has satisfied the section 172(c) requirements.

(1) Section 172(c)(1) requires nonattainment areas to provide for the

implementation of all reasonably available control measures (RACM) as expeditiously as practicable. EPA approved Wisconsin's RACM demonstration on November 13, 2001 (66 FR 56931).

(2) Section 172(c)(2) requires an area to submit a SIP providing for reasonable further progress (RFP). This requirement was superseded by the 15 percent RFP plan required under section 182(b)(1). EPA approved Wisconsin's RFP SIP on March 22, 1996 (61 FR 11735).

(3) Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. The requirement was superseded by the inventory requirement in section 182(a)(1). The WDNR submitted such an inventory on November 15, 1992. It was approved on June 15, 1994 (59 FR 30702).

(4) Section 172 (c)(4) requires the quantification of emissions that will be allowed from the construction of major new or modified stationary sources.

172(c)(5) requires permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. Section 182(a)(4) requires all major new sources or modifications in a marginal nonattainment area to achieve offsetting reductions of volatile organic compounds (VOC) at a ratio of at least 1.1 to 1.0. Section 182(b)(5) requires all major new sources or modifications in a moderate nonattainment area to achieve offsetting reductions of VOCs at a ratio of at least 1.15 to 1.0. The WDNR submitted nonattainment area NSR rules on November 15, 1992. EPA approved Wisconsin's rules on January 18, 1995, (60 FR 3538). The State PSD program will become effective in Manitowoc and Door Counties upon redesignation to attainment. EPA delegated the PSD program to WDNR on November 4, 1987.

(5) Section 172(c)(9) requires the state to provide for the implementation of contingency measures if the area fails to make reasonable further progress or attain the NAAQS. EPA approved the State's contingency measures on March 22, 1996 (61 FR 11735).

Section 176(c) of the Act requires States to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable State SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as to all other

Federally supported or funded projects ("general conformity"). Section 176 further provides that state conformity revisions must be consistent with Federal conformity regulations that the Act required the EPA to promulgate.

EPA approved Wisconsin's general and transportation conformity SIPs on July 29, 1996 (61 FR 39329) and August 27, 1996 (61 FR 43970), respectively. The on-highway motor vehicle budgets for Door County are 0.74 tons of VOC/day and 1.17 tons of NO<sub>x</sub>/day, based on the area's 2013 level of emissions. The on-highway motor vehicle budgets for Manitowoc County are 1.89 tons of VOC/day and 3.59 tons of NO<sub>x</sub>/day, based on the area's 2013 level of emissions. Door and Manitowoc Counties must use the motor vehicle emissions budgets from the maintenance plan in any conformity determination that is effective on or after the effective date of the maintenance plan approval.

## Subpart 2 of Part D

Door County is a rural transport (marginal) ozone nonattainment area and is subject to the section 182(a) requirements. Manitowoc County is a moderate ozone nonattainment area and is subject to the section 182(a), 182(b), and 182(f) requirements. The following discussion describes each of these requirements, as well as Door and Manitowoc Counties' approval status for each item.

(1) The emission inventory required by section 182(a)(1) was approved on June 15, 1994 (59 FR 30702).

(2) The RACT corrections required by section 182(a)(2)(A) were approved on August 15, 1994 (59 FR 41709) and April 27, 1995 (60 FR 20643).

(3) The section 182(a)(2)(B) motor vehicle inspection and maintenance (I/M) requirement is not applicable to Manitowoc or Door Counties since the areas were not required to implement I/M prior to the enactment of the 1990 Amendments.

(4) The NSR rules required by section 182(a)(C), the offset ratio of 1.1 to 1 required by section 182(a)(4) for Door County, and the offset ratio of 1.15 to 1 required by section 182(b)(5) for Manitowoc County were approved on January 18, 1995 (60 FR 3538).

(5) The emission statement SIP required by section 182(a)(3)(B) was approved on December 6, 1993 (58 FR 64155).

(6) The 15 percent RFP plan required under section 182(b)(1) was approved on March 22, 1996 (61 FR 11735).

(7) The attainment demonstration required by section 182(b)(1) was

approved on November 13, 2001 (66 FR 56931).

(8) The VOC RACT requirements of section 182(b)(2) were approved as follows: primary submittal on August 15, 1994 (59 FR 41709) and April 27, 1995 (60 FR 20643); yeast manufacturing, molded wood parts or products coating, and wood door finishing on June 30, 1995 (60 FR 34170); screen printing and negative declarations on July 28, 1995 (60 FR 38722); iron and steel foundries on February 13, 1996 (61 FR 5514); wood furniture coating on April 4, 1996 (61 FR 14972); lithographic printing on April 9, 1996 (61 FR 105706); industrial adhesives on April 25, 1996 (61 FR 18257); and industrial solvent cleaning, plastic parts coating, and ink manufacturing on November 13, 2001 (66 FR 56931).

(9) The Stage II gasoline vapor recovery rules required by section 182(b)(3) were approved on August 13, 1993 (58 FR 43080).

(10) The motor vehicle inspection and maintenance (I/M) requirement to satisfy section 182(b)(4) is not applicable for Manitowoc County because there are no urbanized areas in Manitowoc County exceeding the population threshold specified in EPA's I/M rule (51 CFR Part 350).

(11) On July 13, 1994, Wisconsin submitted a section 182(f) NO<sub>x</sub> petition to be relieved of the section 182(f) NO<sub>x</sub> requirements based on urban airshed modeling (UAM). The modeling showed that NO<sub>x</sub> emission reductions would not contribute to attainment of the ozone standard. EPA approved the section 182(f) petition on January 26, 1996 (61 FR 2428). On November 13, 2001 (66 FR 56931), EPA approved a revision to the 182(f) exemption which states that NO<sub>x</sub> emission reductions other than those contained in the attainment demonstration are not necessary for attainment. A NO<sub>x</sub> waiver remains in effect for the areas.

c. Fully Approved SIP Under Section 110(k) of the Act

Wisconsin has presented an adequate demonstration that the State has met all the requirements applicable to the areas under section 110 and part D. EPA has approved all relevant portions of the Wisconsin SIP for Manitowoc and Door Counties.

d. Improvement in Air Quality Due to Permanent and Enforceable Measures

The State must be able to reasonably attribute the improvement in air quality to emission reductions which are permanent and enforceable. To satisfy this requirement, the State has

calculated the change in emissions between 1990 and 1999 and has documented specific permanent and enforceable programs responsible for emission reductions over this time period.

Wisconsin is using 1990 for the nonattainment inventory because it is one of the years used to determine the design value of the areas for designation and classification. The 1990 inventory is based on the 1990 Base Year Emissions Inventory required by section 182(a)(1) and approved by EPA on June 15, 1994 (59 FR 30702). For comparison, the state developed a baseline inventory for 1999, one of the years the areas monitored attainment.

For the 1990 through 1999 time period, the state has quantified emission reductions from the following permanent and enforceable measures: Federal "Tier 0" vehicle standards; 1992 gasoline Reid vapor pressure change; Federal "Tier 1" vehicle standards; Federal architectural, industrial and maintenance coatings rule; Federal consumer and commercial products rule; autobody refinishing rule; Stage II vapor recovery; traffic markings rule; gasoline station tank breathing rule; Federal non-road engine standards; wood furniture coating rule; miscellaneous wood products coating rule; industrial adhesives rule; lithographic printing rule; and plastic parts coating rule.

Based on the inventories described above, Wisconsin's submittal documents changes in VOC and NO<sub>x</sub> emissions from 1990 to 1999 for each county. Those changes in emissions are shown in tables 2 through 5 below.<sup>1</sup>

TABLE 2.—DOOR COUNTY 1990–1999 VOC EMISSION REDUCTIONS [tons per day]

Sector	1990	1999	Net change 1990–1999
Point .....	0.00	0.14	0.14
Area .....	5.92	2.61	–3.31
Non-Road			
Mobile ....	4.15	4.41	0.26
Mobile .....	3.34	1.73	–1.61
Total .....	13.41	8.89	–4.52

<sup>1</sup> Any discrepancies between the table totals and the sum of their constituent values are due to rounding conventions. The sector totals were actually figured to three decimal places, summed, and then rounded to two decimal places to obtain the total emissions.

TABLE 3.—DOOR COUNTY 1990–1999 NO<sub>x</sub> EMISSION REDUCTIONS [tons per day]

Sector	1990	1999	Net change 1990–1999
Point .....	0.00	0.02	0.02
Area .....	0.54	0.35	–0.19
Non-Road			
Mobile ....	0.84	1.02	0.18
Mobile .....	3.23	2.69	–0.54
Total .....	4.61	4.07	–0.54

TABLE 4.—MANITOWOC COUNTY 1990–1999 VOC EMISSION REDUCTIONS [tons per day]

Sector	1990	1999	Net change 1990–1999
Point .....	1.16	1.92	0.76
Area .....	9.40	6.28	–3.12
Non-Road			
Mobile ....	2.26	2.34	0.08
Mobile .....	9.16	4.36	–4.80
Total .....	21.98	14.90	–7.08

TABLE 5.—MANITOWOC COUNTY 1990–1999 NO<sub>x</sub> EMISSION REDUCTIONS [tons per day]

Sector	1990	1999	Net change 1990–1999
Point .....	3.20	3.39	0.19
Area .....	1.57	1.06	–0.51
Non-Road			
Mobile ....	1.91	2.47	0.56
Mobile .....	8.81	7.93	–0.88
Total .....	15.49	14.86	–0.63

Tables 2 and 3 show that Door County reduced VOC emissions by 4.52 tons per day and NO<sub>x</sub> emissions by 0.54 tons per day between 1990 and 1999. Tables 4 and 5 show that Manitowoc County reduced VOC emissions by 7.08 tons per day and NO<sub>x</sub> emissions by 0.63 tons per day between 1990 and 1999.

Based on this information, the State has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

e. Fully Approved Maintenance Plan Under Section 175A

Section 175A of the Act sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the EPA approves a

redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates attainment for the 10 years following the initial 10-year period. To address potential future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems.

Section 175A(d) requires that the contingency provisions include a requirement that the State will implement all control measures that were in the SIP prior to redesignation as an attainment area.

An ozone maintenance plan should address the following five elements: attainment inventory, demonstration of maintenance, monitoring network, verification of continued attainment, and a contingency plan.

**Attainment Inventory**

On November 13, 2001 (66 FR 56931), EPA approved Wisconsin's one-hour ozone attainment demonstration for the Milwaukee area, Manitowoc County and Door County. The approved demonstration shows modeled attainment in 2007. Consequently, Wisconsin must use 2007 as the attainment year for Manitowoc and Door Counties. The State has developed an attainment inventory by projecting the 1999 baseline emission inventory described above to 2007 using growth factors and control factors.

The attainment level of emissions are summarized in the tables below:<sup>2</sup>

**TABLE 6.—DOOR COUNTY 2007 ATTAINMENT INVENTORY—VOC AND NO<sub>x</sub>**

[tons per day]		
Sector	VOC	NO <sub>x</sub>
Point .....	0.17	0.02
Area .....	2.62	0.36
Non-Road Mobile .....	3.96	1.05
Mobile .....	1.20	2.03
<b>Total .....</b>	<b>7.94</b>	<b>3.46</b>

<sup>2</sup> Any discrepancies between the table totals and the sum of their constituent values are due to rounding conventions. The sector totals were actually figured to three decimal places, summed, and then rounded to two decimal places to obtain the total emissions.

**TABLE 7.—MANITOWOC COUNTY 2007 ATTAINMENT INVENTORY—VOC AND NO<sub>x</sub>**

[tons per day]		
Sector	VOC	NO <sub>x</sub>
Point .....	2.23	3.08
Area .....	6.53	1.11
Non-Road Mobile .....	1.70	2.46
Mobile .....	3.12	6.33
<b>Total .....</b>	<b>13.58</b>	<b>12.98</b>

**Demonstration of Maintenance**

In order to demonstrate continued attainment for ten years after EPA approves the redesignation, the State was required to develop inventories for 2007 and 2013. The 2007 attainment inventory was projected from the 1999 baseline inventory using growth and control factors. To demonstrate maintenance, the state initially projected the 1999 inventory to 2012, using the same methodology. Subsequently, due to a delay in submitting the redesignation request, an inventory was needed for 2013 to demonstrate maintenance for a full ten years after redesignation. For all sectors except highway mobile, the state assumed annual growth between 2012 and 2013 to be equivalent to the average annual growth between 2007 and 2012 by type sector. For highway mobile emissions, the state used the MOBILE6 model and assumed growth in vehicle miles traveled (VMT) between 2012 and 2013 to be equivalent to the average VMT growth between 2007 and 2012.

These emission estimates are presented in the tables below and demonstrate that VOC and NO<sub>x</sub> emissions will decrease in future years.<sup>3</sup> The results of this analysis show that the area is expected to maintain the air quality standard for at least ten years into the future.

**TABLE 8.—DOOR COUNTY VOC MAINTENANCE EMISSION INVENTORY SUMMARY**

[tons per day]		
Sector	2007	2013
Point .....	0.17	0.18
Area .....	2.62	2.83
Non-Road Mobile .....	3.96	3.68
Mobile .....	1.20	0.74
<b>Total .....</b>	<b>7.94</b>	<b>7.44</b>

<sup>3</sup> Any discrepancies between the table totals and the sum of their constituent values are due to rounding conventions. The sector totals were actually figured to three decimal places, summed, and then rounded to two decimal places to obtain the total emissions.

**TABLE 9.—DOOR COUNTY NO<sub>x</sub> MAINTENANCE EMISSION INVENTORY SUMMARY**

[tons per day]		
Sector	2007	2013
Point .....	0.02	0.02
Area .....	0.36	0.36
Non-Road Mobile .....	1.05	1.09
Mobile .....	2.03	1.17
<b>Total .....</b>	<b>3.46</b>	<b>2.64</b>

**TABLE 10.—MANITOWOC COUNTY VOC MAINTENANCE EMISSION INVENTORY SUMMARY**

[tons per day]		
Sector	2007	2013
Point .....	2.23	2.45
Area .....	6.53	6.69
Non-Road Mobile .....	1.75	1.47
Mobile .....	3.12	1.89
<b>Total .....</b>	<b>13.62</b>	<b>12.50</b>

**TABLE 11.—MANITOWOC COUNTY NO<sub>x</sub> MAINTENANCE EMISSION INVENTORY SUMMARY**

[tons per day]		
Sector	2007	2013
Point .....	3.08	3.30
Area .....	1.11	1.12
Non-Road Mobile .....	2.41	2.45
Mobile .....	6.33	3.59
<b>Total .....</b>	<b>12.93</b>	<b>10.47</b>

The emission projections show that the emissions are not expected to exceed the level of the 2007 attainment year inventory during the 10-year maintenance period. In Door County, VOC and NO<sub>x</sub> emissions are projected to decrease by 0.5 tons per day and 0.82 tons per day, respectively. In Manitowoc County, VOC and NO<sub>x</sub> emissions are projected to decrease by 1.12 tons per day and 2.46 tons per day, respectively.

**Monitoring Network**

Wisconsin currently operates one ozone monitor in Door County and two ozone monitors in Manitowoc County. The WDNR has committed to continue operating and maintaining an approved ozone monitor network in both counties through the maintenance period and beyond.

**Verification of Continued Attainment**

Tracking—Continued attainment of the ozone NAAQS in Manitowoc and Door Counties depends, in part, on the

State's efforts toward tracking indicators of continued attainment during the maintenance period. The tracking plan for Manitowoc and Door Counties primarily consists of continued ambient ozone monitoring in accordance with the requirements of 40 CFR part 58. WDNR maintains a comprehensive ambient air quality monitoring network and air quality reporting program, including ozone monitoring sites throughout the state and a fully enhanced network in the area around Lake Michigan. These are structured in state statute to continue through and past the maintenance period. The state will also evaluate future VOC and NO<sub>x</sub> emissions inventories for increases over 1999 levels.

Triggers include a violation of the one-hour ozone NAAQS; monitored ambient levels of ozone exceeding .124 ppm more than once per year at any one monitoring station; and levels exceeding .124 more than twice over a three year period at any one monitoring station.

#### Contingency Plan

Despite the best efforts to demonstrate continued compliance with the NAAQS, the ambient ozone concentrations may exceed or violate the NAAQS. Therefore, as required by section 175A of the Act, Wisconsin has provided contingency measures to promptly correct a future ozone air quality problem. For the years 2003 through 2007, Wisconsin has identified the following contingency measures: the NO<sub>x</sub> SIP Call (upwind reductions in Illinois and Indiana); Federal non-road engine standards; BP Amoco Agreed Order (Indiana); Wisconsin rule NR 428 NO<sub>x</sub> reductions; Tier 2 vehicle standards and low sulfur fuel; heavy duty diesel standards and low sulfur diesel fuel; and volatile organic liquid storage (Indiana). These measures are adopted and will be implemented over this time period. From 2008 through 2013, a violation of the standard will trigger the following: within 6 months Wisconsin will complete an analysis to determine appropriate VOC and/or NO<sub>x</sub> control levels and locations to address the cause of the violation, including recommended control measures; Wisconsin will adopt selected contingent maintenance measures within 18 months; and the state commits to as short an implementation time-frame as would be appropriate based on the type of control adopted. Implementation schedules specific to each control measure are set forth in the State's submission. Potential contingency measures contained in the plan for this time period include the following: Reinstatement of

requirements for offsets and/or LAER; application of RACT to smaller existing sources; tightening of RACT for existing sources; expanded geographic coverage of current point source measures; additional NO<sub>x</sub> controls; transportation control measures, including, but not limited to, area-wide rideshare programs, telecommuting, transit improvements, and traffic flow improvements; high-enhanced I/M (OBDII); California Engine Standards; California Architectural Industrial Maintenance rule; California Commercial and Consumer Products; broader geographic applicability of existing area source measures; and California Off-road Engine Standards.

#### Commitment To Submit Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the Act, the State has committed to submit a revised maintenance SIP eight years after the areas are redesignated to attainment (see page 4–2 of Wisconsin's submittal). Such revised SIP will provide for maintenance for an additional 10 years.

#### B. 1999 Periodic Emissions Inventory for the Milwaukee-Racine Area

In accordance with requirements of the Act, the Milwaukee-Racine area was designated as an ozone nonattainment area on November 6, 1991 (56 FR 56850). At that time, the area, which includes the counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha, was classified as a severe ozone nonattainment area. Section 182(a)(3)(A) of the Act requires the State to submit an updated emissions inventory for the area every three years following the base year emissions inventory required by section 182(a)(1). The base year for the emissions inventory was 1990. The 1999 inventory submitted with the redesignation request for Manitowoc and Door Counties includes the Milwaukee-Racine area and addresses the need for the state to submit a 1999 inventory under section 182(a)(3)(A).

Wisconsin developed the inventory using the following methodology. For the point source sector, the State used reported point source emissions, EPA's Acid Rain Program point source emissions, and approved EPA techniques for emission calculation. Area source emission estimates were calculated using county-level estimates of population, gasoline consumption, employment or other related commercial/institutional, industrial and residential surrogates. For the appropriate categories, to avoid double counting, point source employment was

subtracted from the county level employment prior to multiplication with emission factors. Emission factors were derived from local or national surveys or EPA procedural guidance for the development of emission inventories. Whenever feasible, Federal, state and local controls were factored into the emission calculations. For the non-road sector, most of the emissions inventory from EPA's Non-Road Engines and Vehicles Study was grown and controlled from 1990 using growth factors derived from projected equipment populations and control factors based on the Federal non-road engine standards. Aircraft emissions were estimated using the Federal Aviation Administration's Emissions and Dispersion Modeling System. Commercial marine emissions were estimated using the same methods detailed in Wisconsin's approved 1990 Base Year Inventory Document Report. Locomotive emissions were estimated using railroad length, frequency of travel and fuel consumed. Highway mobile sector emissions were calculated using the MOBILE6 model and estimated summer weekday 1999 VMT. The inventory methodology is consistent with EPA guidance.

#### II. What Action Is EPA Taking?

The EPA is making a determination that Manitowoc and Door Counties in Wisconsin have attained the one-hour ozone NAAQS, based on 1999–2002 air quality monitoring data. We are approving the ozone maintenance plan for Door and Manitowoc Counties and the corresponding transportation conformity budgets as a SIP revision meeting the requirements of section 175A. In addition, we are approving the redesignation request for Door and Manitowoc Counties because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) of the Act. We are also approving the 1999 inventory submitted as meeting the periodic emissions inventory requirement of section 182(a)(3)(A).

#### III. Is This Action Final, or May I Submit Comments?

EPA is publishing this action without prior proposal, because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision. Should EPA receive adverse written comments by May 19, 2003, we will withdraw this direct final and respond to any comments in a final action. If EPA does not receive adverse comments, this action will be effective

without further notice. Any parties interested in commenting on this action should do so at this time. If we do not receive comments, this action will be effective on June 16, 2003.

#### IV. What Statutory and Executive Order Reviews Did EPA Conduct?

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23,

1997), because it is not a significant regulatory action under Executive Order 12866.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a SIP submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order, and has determined that the rule's requirements do not constitute a taking. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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 Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 16, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: April 3, 2003.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations 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 paragraphs (q) and (r) to read as follows:

#### § 52.2585 Control strategy: Ozone.

\* \* \* \* \*

(q) Approval—On January 28, 2003, the Wisconsin Department of Natural Resources submitted a request to redesignate Manitowoc and Door Counties to attainment. Additional information was submitted on February 5, 2003 and February 27, 2003. As part of the redesignation request, the State submitted a maintenance plan as required by section 175A of the Clean Air Act, as amended in 1990. Elements of the section 175 maintenance plan include a contingency plan and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. The 2013 motor vehicle emission budgets for Door County are 0.74 tons of volatile organic compounds (VOC) per day and 1.17 tons of oxides of nitrogen (NO<sub>x</sub>) per day. The 2013 motor vehicle emission budgets for Manitowoc County are 1.89 tons of VOC per day and 3.59 tons of NO<sub>x</sub> per day.

(r) Approval—On January 28, 2003, the Wisconsin Department of Natural Resources submitted a 1999 periodic emissions inventory for the Milwaukee-Racine area. Additional information was submitted on February 5, 2003 and February 27, 2003. The inventory meets the requirement of section 182(2)(3)(A)

of the Clean Air Act as amended in 1990.

■ Part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 81—[AMENDED]**

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. Section 81.350 is amended by revising the attainment status designation table entries for the Door County and Manitowoc County areas for ozone to read as follows:

**§ 81.350 Wisconsin.**

\* \* \* \* \*

WISCONSIN—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
* * * * *				
Door County Area:				
Door County .....	6/16/03	Attainment.		
* * * * *				
Manitowoc County Area:				
Manitowoc County .....	6/16/03	Attainment.		
* * * * *				

<sup>1</sup> This date is October 18, 2000, unless otherwise noted.

[FR Doc. 03-9347 Filed 4-16-03; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 112**

[FRN-7484-7]

RIN 2050-AC62

**Oil Pollution Prevention and Response; Non-Transportation-Related Onshore and Offshore Facilities**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA or we) is today extending, by eighteen months from the dates promulgated in the July 2002 Spill Prevention Control and Countermeasure (SPCC) amendments, the dates for a facility to amend its SPCC Plan and implement the amended Plan (or, in the case of facilities becoming operational after August 16, 2002, prepare and implement a Plan that complies with the newly amended requirements). We are finalizing this extension to, among other things, provide sufficient time for the regulated community to undertake the actions necessary to update (or prepare) their plans in accordance with the amendments. The extension will also avoid a flood of individual extension requests it has become apparent we will otherwise receive.

**DATES:** This final rule is effective April 17, 2003.

**ADDRESSES:** The docket for this rulemaking is located in the EPA Docket Center at 1301 Constitution Ave., NW., EPA West, Suite B-102, Washington, DC 20460. The docket number for the final rule is OPA-2002-0001. The docket is contained in the EPA Docket Center and is available for inspection by appointment only, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays. You may make an appointment to view the docket by calling 202-566-0276. You may copy a maximum of 100 pages from any regulatory docket at no cost. If the number of pages exceeds 100, however, we will charge you \$0.15 for each page after 100. The docket will mail copies of materials to you if you are outside of the Washington, DC metropolitan area.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA/CERCLA Call Center at 800-424-9346 or TDD 800-553-7672 (hearing impaired). In the Washington, DC metropolitan area, call 703-412-9810 or TDD 703-412-3323.

For more detailed information on specific aspects of this final rule, contact Hugo Paul Fleischman at 703-603-8769 ([fleischman.hugo@epa.gov](mailto:fleischman.hugo@epa.gov)); or Mark W. Howard at 703-603-8715 ([howard.markw@epa.gov](mailto:howard.markw@epa.gov)), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0002, Mail Code 5203G.

**SUPPLEMENTARY INFORMATION:** This final rule concerns an eighteen month extension of the deadlines in 40 CFR 112.3(a) and (b). The contents of this preamble are as follows:

- I. General Information
- II. Entities Affected by This Rule
- III. Statutory Authority
- IV. Background
- V. Today's Action
- VI. Statutory and Executive Order Reviews

**I. General Information**

*Introduction.* For the reasons explained in Section V of this notice, the Environmental Protection Agency (EPA or we) is finalizing a proposal to extend the dates in 40 CFR 112.3(a) and (b) for a facility to amend its Spill Prevention, Control, and Countermeasure (SPCC) Plan and implement the amended Plan (or, in the case of facilities becoming operational after August 16, 2002, prepare and implement a Plan that complies with the newly amended requirements). Today's rule extends these deadlines by eighteen months from the dates promulgated in the July 2002 SPCC rule amendments.

*How Can I Get Copies of The Background Materials Supporting Today's Final Rule or Other Related Information?*

1. EPA has established an official public docket for this proposed rule under Docket ID No. OPA-2002-0001. The official public docket consists of the documents specifically referenced in this final rule and other information