6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2019-0557; FRL-10008-33-Region 5]

Air Plan Approval; Wisconsin; Redesignation of the Inland Sheboygan, WI Area to Attainment of the 2008 Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to find that the Inland Sheboygan County, Wisconsin area is attaining the 2008 primary and secondary ozone National Ambient Air Quality Standards (NAAQS), and to act in accordance with a request from the Wisconsin Department of Natural Resources (WDNR) to redesignate the area to attainment for the 2008 ozone NAAQS because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). WDNR submitted this request on October 9, 2019. EPA is proposing to approve, as a revision to the Wisconsin State Implementation Plan (SIP), the State's plan for maintaining the 2008 ozone NAAQS through 2030 in the Inland Sheboygan area. EPA finds adequate and is proposing to approve Wisconsin's 2020 and 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Inland Sheboygan area. Finally, EPA is proposing to approve the Wisconsin SIP as

meeting the applicable base year inventory requirement, emission statement requirements, VOC Reasonably Available Control Technology (RACT) requirements, motor vehicle inspection and maintenance (I/M) program requirements, and NO_X RACT requirements.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register].**

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2019-0557 at http://www.regulations.gov, or via email to aburano.douglas@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the

"For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit http://www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-4489, svingen.eric@epa.gov.

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

I. What is EPA proposing?

EPA is proposing to take several related actions. EPA is proposing to determine that the Inland Sheboygan nonattainment

area is attaining the 2008 ozone NAAQS, based on quality-assured and certified monitoring data for 2017-2019, and that the Inland Sheboygan area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Inland Sheboygan area from nonattainment to attainment for the 2008 ozone NAAQS. EPA is also proposing to approve, as a revision to the Wisconsin SIP, the State's maintenance plan (such approval being one of the CAA criteria for redesignation to attainment status) for the area. The maintenance plan is designed to keep the Inland Sheboygan area in attainment of the 2008 ozone NAAQS through 2030. EPA is also proposing to approve, as revisions to the Wisconsin SIP, the State's 2011 base year emissions inventory, emission statement certification, VOC RACT requirements, motor vehicle I/M certification, and NO_X RACT certification. EPA also finds adequate and is proposing to approve the newly established 2020 and 2030 MVEBs for the Inland Sheboygan area.

II. What is the background for these actions?

EPA has determined that ground-level ozone is detrimental to human health. On July 18, 1997, EPA revised the former 1-hour ozone primary and secondary standards and replaced them with 8-hour standards at a level of 0.08 parts per million (ppm) (40 CFR 50.10). On March 27, 2008, EPA further revised the 8-hour ozone NAAQS by lowering the level of the primary and

secondary standards from 0.08 ppm to 0.075 ppm (40 CFR 50.15).

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent three years of quality assured ozone monitoring data. On April 30, 2004 (69 FR 23858) and May 21, 2012 (77 FR 30088), EPA designated the entirety of Sheboygan County in Wisconsin as nonattainment for the 1997 ozone NAAQS and 2008 ozone NAAQS, respectively.

On March 1, 2011, EPA determined that the Sheboygan nonattainment area had attained the 1997 ozone NAAQS (76 FR 11080). Since that determination, the area has continued to attain the 1997 ozone NAAQS, and the area retains its Moderate classification. On December 19, 2016, EPA reclassified the Sheboygan nonattainment area for the 2008 ozone NAAQS as Moderate with an attainment date of July 20, 2018 (81 FR 91841).

On July 15, 2019, EPA revised the designation for the Sheboygan nonattainment area for the 1997 ozone NAAQS and 2008 ozone NAAQS, by splitting the original area into two distinct nonattainment areas that together cover the identical geographic area of the original nonattainment area (84 FR 33699).[1] One of the separate areas, called the Shoreline Sheboygan County, WI

[1] In this proposed rule, EPA is not reopening for public comment our final July 15, 2019, action to split the original Sheboygan nonattainment area into two distinct nonattainment areas.

nonattainment area, consists of the eastern portion of the original area, including the Sheboygan Kohler-Andrae monitor. The other separate area, called the Inland Sheboygan County, WI nonattainment area, consists of the western portion of the original area, including the Sheboygan Haven monitor. On August 23, 2019, EPA determined that the Inland Sheboygan area and Shoreline Sheboygan area qualified for one-year attainment date extensions for the 2008 ozone NAAQS to July 20, 2019 (84 FR 44238).

III. What are the criteria for redesignation?

Section 107(d)(3)(E) of the CAA allows redesignation of an area to attainment of the NAAQS provided that: (1) the Administrator determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for the purposes of redesignation under

section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (57 FR 13498) and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. "Ozone and Carbon Monoxide Design Value Calculations," Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. "Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. "Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the "Calcagni Memorandum");
5. "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," Memorandum from John Calcagni, Director, Air Quality Management Division,

October 28, 1992;

6. "Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;

7. "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," Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;

8. "Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas," Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;

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

10. "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. What is EPA's analysis of Wisconsin's redesignation request for the 2008 ozone NAAQS?

A. Has the Inland Sheboygan area attained the 2008 ozone NAAQS?

For redesignation of a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2008 ozone NAAQS as determined in accordance with 40 CFR 50.15 and appendix P of part 50, based on three complete, consecutive calendar years of quality-assured air quality data for all monitoring sites in the area. To attain the NAAQS, the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.075 ppm. The air quality data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). Ambient air quality monitoring data for the 3-year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90% of the days within the ozone monitoring seasons[2], on average, for the 3-year period, with a minimum data completeness of 75% during the ozone monitoring season of any year during the 3-year period. *See* section 2.3 of appendix P to 40 CFR part 50.

[2] The ozone season is defined by state in 40 CFR 58, appendix D. The ozone season for Wisconsin is March-October 15. *See* 80 FR 65292, 65466-67 (October 26, 2015).

EPA has reviewed the available ozone monitoring data from the Sheboygan Haven monitor, which is the only monitoring site in the Inland Sheboygan area. These data are from the 3-year period from 2017-2019, which is the most recent 3-year period available. These data have been quality assured, are recorded in the AQS, and have been certified. These data demonstrate that the Inland Sheboygan area is attaining the 2008 ozone NAAQS. The annual fourth-highest 8-hour ozone concentrations and the 3-year average of these concentrations (monitoring site ozone design value) for the monitoring site are summarized in Table 1.

Table 1. Annual fourth-highest daily maximum 8-hour ozone concentrations and 3-year average of the fourth-highest daily maximum 8-hour ozone concentrations for the Inland Sheboygan area.

Area	Monitor	Year	% Observed	Fourth-highest (ppm)	2017-2019 average (ppm)
Inland Sheboygan County, WI	Sheboygan Haven (55-117-0009)	2017	100	0.070	0.066
		2018	100	0.070	
		2019	100	0.059	

The Inland Sheboygan area's 3-year ozone design value for 2017-2019 is 0.066 ppm, which meets the 2008 ozone NAAQS. Therefore, in this action, EPA proposes to determine that the Inland Sheboygan area is attaining the 2008 ozone NAAQS.

EPA will not take final action to determine that the Inland Sheboygan area is attaining the NAAQS nor to approve the redesignation of this area if the design value of a monitoring

site in the area violates the NAAQS after proposal but prior to final approval of the redesignation. Preliminary 2020 data to date indicate that this area continues to attain the 2008 ozone NAAQS. As discussed in section IV.D.3. below, WDNR has committed to continue monitoring ozone in this area to verify maintenance of the 2008 ozone NAAQS.

B. Has Wisconsin met all applicable requirements of section 110 and part D of the CAA for the Inland Sheboygan area, and does Wisconsin have a fully approved SIP for the area under section 110(k) of the CAA?

As criteria for redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (*see* section 107(d)(3)(E)(v) of the CAA) and that the state has a fully approved SIP under section 110(k) of the CAA (*see* section 107(d)(3)(E)(ii) of the CAA). We are proposing to determine that Wisconsin has met all currently applicable SIP requirements for purposes of redesignation of the Inland Sheboygan area to attainment of the 2008 ozone standard under section 110 and part D of the CAA, in accordance with section 107(d)(3)(E)(v). Additionally, with the exception of the base year emissions inventory requirement of section 182(a)(1) of the CAA, the emissions statement requirement of section 182(a)(3)(B) of the CAA, the VOC RACT

requirements of section 182(b)(2) of the CAA, the I/M requirements of section 182(b)(4) of the CAA, and the NO_X RACT requirements of section 182(f) of the CAA, EPA finds that all applicable requirements of the Wisconsin SIP for the area, for purposes of redesignation, have been fully approved under section 110(k) of the CAA. As discussed in sections VI. through X. below, EPA is proposing to approve Wisconsin's base year emissions inventory, emissions statement, motor vehicle I/M, VOC RACT, and NO_X RACT SIP submissions as meeting the Moderate RACT requirements of section 182(b)(2) of the CAA for the Inland Sheboygan area under the 2008 ozone NAAQS. Upon final approval of these SIP elements, all applicable requirements of the Wisconsin SIP for the area will have been fully approved under section 110(k) of the CAA.

In making these determinations, EPA ascertained which CAA requirements are applicable to the Inland Sheboygan area and the Wisconsin SIP and, if applicable, whether the required Wisconsin SIP elements are fully approved under section 110(k) and part D of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to currently applicable requirements of the CAA.

The September 4, 1992 Calcagni memorandum (*see* "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management

Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) of the CAA. Under this interpretation, a state and the area it wishes to redesignate must meet the relevant CAA requirements that are due prior to the state's submittal of a complete redesignation request for the area. *See also* the September 17, 1993, Michael Shapiro memorandum and 60 FR 12459, 12465-66 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS). Applicable requirements of the CAA that come due subsequent to the state's submittal of a complete request remain applicable until a redesignation to attainment is approved, but are not required as a prerequisite to redesignation. *See* section 175A(c) of the CAA. *Sierra Club v. EPA*, 375 F.3d 537 (7th Cir. 2004). *See also* 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

Since EPA is proposing to determine that the Inland Sheboygan area has attained the 2008 ozone standard, under 40 CFR 51.1118, if that determination is finalized, the requirements to submit certain planning SIPs related to attainment, including attainment demonstration requirements (the Reasonably Available Control Measures (RACM) requirement of section 172(c)(1) of the CAA, the Reasonable Further Progress (RFP) and attainment demonstration requirements of sections

172(c)(2) and (6) and 182(b)(1) of the CAA, and the requirement for contingency measures of section 172(c)(9) of the CAA) would not be applicable to the area as long as it continues to attain the NAAQS and would cease to apply upon redesignation. In addition, in the context of redesignations, EPA has interpreted requirements related to attainment as not applicable for purposes of redesignation. For example, in the General Preamble EPA stated that:

The section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas. "General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990," (General Preamble) 57 FR 13498, 13564 (April 16, 1992).

See also Calcagni memorandum at 6 ("The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.").

1. Wisconsin has met all applicable requirements of section 110 and part D of the CAA applicable to the Inland Sheboygan area for purposes of redesignation.

a. Section 110 General Requirements for Implementation Plans.

Section 110(a)(2) of the CAA delineates the general requirements for a SIP. Section 110(a)(2) provides that the SIP must have been adopted by the state after reasonable public notice and hearing, and that, among other things, it must: (1) include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of stationary sources within the areas covered by the plan; (4) include provisions for the implementation of part C prevention of significant deterioration (PSD) and part D new source review (NSR) permit programs; (5) include provisions for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and, (7) provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires SIPs to contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to

establish programs to address transport of certain air pollutants, *e.g.*, the NO_X SIP call, the Clean Air Interstate Rule (CAIR), and the Cross State Air Pollution Rule (CSAPR). However, like many of the 110(a)(2) requirements, the section 110(a)(2)(D) SIP requirements are not linked with a particular area's ozone designation and classification. EPA concludes that the SIP requirements linked with the area's ozone designation and classification are the relevant measures to evaluate when reviewing a redesignation request for the area. The section 110(a)(2)(D) requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area within the state. Thus, we believe these requirements are not applicable requirements for purposes of redesignation. *See* 65 FR 37890 (June 15, 2000), 66 FR 50399 (October 19, 2001), 68 FR 25418, 25426-27 (May 13, 2003).

In addition, EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's ozone attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated to attainment of the 2008 ozone NAAQS. The section 110 and part D requirements that are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach

is consistent with EPA's existing policy on applicability (*i.e.*, for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania proposed and final rulemakings, 61 FR 53174-53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997); Cleveland-Akron-Loraine, Ohio final rulemaking, 61 FR 20458 (May 7, 1996); and Tampa, Florida final rulemaking, 60 FR 62748 (December 7, 1995). *See also* the discussion of this issue in the Cincinnati, Ohio ozone redesignation (65 FR 37890, June 19, 2000), and the Pittsburgh, Pennsylvania ozone redesignation (66 FR 50399, October 19, 2001).

We have reviewed Wisconsin's SIP and have concluded that it meets the general SIP requirements under section 110 of the CAA, to the extent those requirements are applicable for purposes of redesignation.[3]

b. Part D Requirements.

Section 172(c) of the CAA sets forth the basic requirements of air quality plans for states with nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes

[3] EPA has previously approved provisions of the Wisconsin SIP addressing section 110 elements under the 2008 ozone NAAQS at 80 FR 54725 (September 11, 2015), 81 FR 3334 (January 21, 2016), 81 FR 53309 (August 12, 2016), and 82 FR 9515 (February 7, 2017).

specific requirements for ozone nonattainment areas depending on the areas' nonattainment classifications.

The Inland Sheboygan area was initially classified as Marginal and then reclassified as Moderate under subpart 2 for the 2008 ozone NAAQS. As such, the area is subject to the subpart 1 requirements contained in section 172(c) and section 176. Similarly, the area is subject to the subpart 2 requirements contained in sections 182(a) and (b) (Marginal and Moderate nonattainment area requirements). A thorough discussion of the requirements contained in section 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

i. Subpart 1 Section 172 Requirements.

CAA Section 172(b) requires states to submit SIPs meeting the requirements of section 172(c) no later than three years from the date of the nonattainment designation.

Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all RACM as expeditiously as practicable and to provide for attainment of the primary NAAQS. Under this requirement, a state must consider all available control measures, including reductions that are available from adopting RACT on existing sources. Because attainment has been reached in the Inland Sheboygan area, no additional measures are needed to provide for

attainment and section 172(c)(1) requirements are no longer considered to be applicable, as long as the area continues to attain the standard until redesignation. *See* 40 CFR 51.1118.

The RFP requirement under section 172(c)(2) is defined as progress that must be made toward attainment. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. This requirement is superseded by the inventory requirement in section 182(a)(1) discussed below.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA approved Wisconsin's NSR program on October 6, 2014 (79 FR 160064) and February 7, 2017 (82 FR 9515). However, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols,

Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment." Wisconsin has demonstrated that the Inland Sheboygan area will be able to maintain the standard without part D NSR in effect; therefore, EPA concludes that the state need not have a fully approved part D NSR program prior to approval of the redesignation request. *See* rulemakings for Detroit, Michigan (60 FR 12467-12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469-20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834-31837, June 21, 1996). Wisconsin's PSD program will become effective in the Inland Sheboygan area upon redesignation to attainment. EPA approved Wisconsin's PSD program on January 22, 2003 (68 FR 2909) and February 25, 2010 (75 FR 8496).

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we believe the Wisconsin SIP meets the requirements of section 110(a)(2) for purposes of redesignation.

Section 172(c)(9) requires the SIP to provide for the

implementation of contingency measures if the area fails to make reasonably further progress or to attain the NAAQS by the attainment deadline. With respect to contingency measures for failure to attain the NAAQS by the attainment deadline, this requirement is not relevant for purposes of redesignation because the Inland Sheboygan area has demonstrated monitored attainment of the 2008 ozone NAAQS. (General Preamble, 57 FR 13564). See also 40 CFR 51.1118.

ii. Section 176 Conformity Requirements.

Section 176(c) of the CAA 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 SIP. The requirement to determine conformity applies to transportation plans, programs and projects that are developed, funded or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity), as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA interprets the conformity SIP requirements as not applying for purposes of evaluating a redesignation request

under section 107(d), because state conformity rules are still required after redesignation and Federal conformity rules apply where state conformity rules have not been approved.[4] *See Wall v. EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Wisconsin has an approved conformity SIP for the Inland Sheboygan area. *See* 79 FR 10995 (February 27, 2014).

iii. Subpart 2 Section 182(a) and (b) Requirements.

Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO_X emitted within the boundaries of the ozone nonattainment area. EPA approved Wisconsin's base year emissions inventory for the entirety of Sheboygan County on March 7, 2016 (81 FR 11673). In its October 9, 2019 submittal, WDNR requested that EPA replace the previously approved 2011 inventory for all of Sheboygan County with a 2011 base year emissions inventory for the Inland Sheboygan area. This inventory is discussed below in section IV.C.2. and VI. of this proposed rule. EPA is proposing to approve the inventory for the Inland Sheboygan area for the 2011

[4] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from SIPs requiring the development of MVEBs, such as control strategy SIPs and maintenance plans.

nonattainment year as meeting the section 182(a)(1) base year inventory requirement.

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC RACT rules that were required under section 172(b)(3) prior to the 1990 CAA amendments. The Inland Sheboygan area is not subject to the section 182(a)(2) RACT "fix up" requirement for the 2008 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments and because Wisconsin complied with this requirement for the Inland Sheboygan area under the prior 1-hour ozone NAAQS. *See* 59 FR 41709 (August 15, 1994) and 60 FR 20643 (April 27, 1995).

Section 182(a)(2)(B) requires each state with a Marginal ozone nonattainment area that implemented or was required to implement a vehicle I/M program prior to the 1990 CAA amendments to submit a SIP revision for an I/M program no less stringent than that required prior to the 1990 CAA amendments or already in the SIP at the time of the CAA amendments, whichever is more stringent. For the purposes of the 2008 ozone standard and the consideration of Wisconsin's redesignation request for this standard, the Inland Sheboygan area is not subject to the section 182(a)(2)(B) requirement because the area was designated

as nonattainment for the 2008 ozone standard after the enactment of the 1990 CAA amendments and because Wisconsin complied with this requirement for the Inland Sheboygan area under the prior 1-hour ozone NAAQS.

Section 182(a)(3) requires states to submit periodic emission inventories and a revision to the SIP to require the owners or operators of stationary sources to annually submit emission statements documenting actual VOC and NO_X emissions. As discussed below in section IV.D.4. of this proposed rule, Wisconsin will continue to update its emissions inventory at least once every three years. With regard to stationary source emission statements, EPA approved Wisconsin's emission reporting program as satisfying the CAA emission statement requirement on December 6, 1993 (58 FR 64155). In a September 25, 2017 SIP submittal, WDNR certified that this approved SIP regulation remains in place and remain enforceable for the 2008 ozone standard. As discussed in section VII., below, EPA is proposing to approve Wisconsin's emission statement certification SIP as meeting the section 182(a)(3)(B) requirements of the CAA for the Inland Sheboygan area for the 2008 ozone NAAQS.

Section 182(b)(1) requires the submission of an attainment demonstration and RFP plan. Because attainment has been reached, section 182(b)(1) requirements are no longer considered to be applicable, as long as the area continues to attain the

standard.

Section 182(b)(2) requires states with Moderate nonattainment areas to implement VOC RACT with respect to each of the following: (1) all sources covered by a Control Technology Guideline (CTG) document issued between November 15, 1990, and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; and, (3) all other major non-CTG stationary sources. For the reasons discussed in section IX., below, EPA is proposing to find that the Wisconsin SIP meets the section 182(b)(2) Moderate RACT requirements for the Inland Sheboygan area under the 2008 ozone NAAQS.

Section 182(b)(3) requires states to adopt Stage II gasoline vapor recovery regulations. On May 16, 2012 (77 FR 28772), EPA determined that the use of onboard vapor recovery technology for capturing gasoline vapor when gasoline-powered vehicles are refueled is in widespread use throughout the highway motor vehicle fleet and waived the requirement that current and former ozone nonattainment areas implement Stage II vapor recovery systems on gasoline pumps. EPA approved a revision to Wisconsin's Stage II program on November 4, 2013 (78 FR 65875).

Section 182(b)(4) requires an I/M program in each state with a Moderate ozone nonattainment area. EPA approved Wisconsin's I/M program on August 16, 2001 (66 FR 42949) and

approved revisions to the program on September 19, 2013 (78 FR 57501). On September 25, 2017, WDNR submitted a SIP certifying that Wisconsin's SIP-approved I/M program meets the I/M requirements of the CAA for the Inland Sheboygan area for the 2008 ozone NAAQS. As discussed in section VIII., below, EPA is proposing to approve Wisconsin's I/M certification SIP as meeting the I/M requirements of the CAA for the Inland Sheboygan area for the 2008 ozone NAAQS.

Regarding the source permitting and offset requirements of sections 182(a)(2)(C), 182(a)(4), and 182(b)(5), Wisconsin currently has a fully-approved part D NSR program in place. EPA approved Wisconsin's NSR SIP on January 18, 1995 (60 FR 3538) and February 7, 2017 (82 FR 9515). Further, EPA approved Wisconsin's SIP revision addressing the NSR requirements for the 2008 ozone NAAQS, on May 3, 2019 (84 FR 18989). In addition, EPA approved Wisconsin's PSD program on October 6, 2014 (79 FR 60064). The State's PSD program will become effective in the Inland Sheboygan area upon redesignation of the area to attainment.

Section 182(f) requires states with Moderate nonattainment areas to implement NO_X RACT. EPA approved Wisconsin's NO_X RACT SIP on October 19, 2010 (75 FR 64155). On September 25, 2017, WDNR submitted a SIP certifying that Wisconsin's SIP-approved NO_X RACT rules meet the NO_X RACT requirements of CAA section 182(f)

for the Inland Sheboygan area for the 2008 ozone NAAQS. As discussed in section X., below, EPA is proposing to approve Wisconsin's NO_X RACT certification SIP as meeting the NO_X RACT requirements of the CAA for the Inland Sheboygan area for the 2008 ozone NAAQS.

Thus, as discussed above, with approval of Wisconsin's section 182(1)(1) base year inventory requirement, section 182(a)(3)(B) emission statement requirements, section 182(b)(2) VOC RACT requirements, section 182(b)(4) I/M program requirements, and section 182(f) NO_X RACT requirements, EPA finds that the Inland Sheboygan area will satisfy all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

2. The Inland Sheboygan area has a fully approved SIP for purposes of redesignation under section 110(k) of the CAA.

At various times, Wisconsin has adopted and submitted, and EPA has approved, provisions addressing the various SIP elements applicable for the ozone NAAQS. As discussed above, if EPA finalizes approval of Wisconsin's section 182(a)(1) base year inventory requirements, section 182(a)(3)(B) emission statement requirements, section 182(b)(2) VOC RACT requirements, section 182(b)(4) I/M program requirements, and section 182(f) NO_X RACT requirements, EPA will have fully approved the Wisconsin SIP for the Inland Sheboygan area under section 110(k) for all

requirements applicable for purposes of redesignation under the 2008 ozone NAAQS. EPA may rely on prior SIP approvals in approving a redesignation request (*see* the Calcagni memorandum at page 3; *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989-990 (6th Cir. 1998); *Wall v. EPA*, 265 F.3d 426). Additional measures may also be approved in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein).

C. Are the air quality improvements in the Inland Sheboygan area due to permanent and enforceable emission reductions?

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions. EPA has determined that Wisconsin has demonstrated that that the observed ozone air quality improvement in the Inland Sheboygan area is due to permanent and enforceable reductions in VOC and NO_X emissions resulting from state measures adopted into the SIP and Federal measures.

In making this demonstration, the State has calculated the change in emissions between 2011 and 2014. The reduction in emissions and the corresponding improvement in air quality over

this time period can be attributed to several regulatory control measures that the Inland Sheboygan area and upwind areas have implemented in recent years. In addition, Wisconsin provided an analysis to demonstrate the improvement in air quality was not due to unusually favorable meteorology. Based on the information summarized below, EPA finds that Wisconsin has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

1. Permanent and enforceable emission controls implemented.

a. Regional NO_X Controls.

CAIR / CSAPR. Under the "good neighbor provision" of CAA section 110(a)(2)(D)(i)(I), states are required to address interstate transport of air pollution. Specifically, the good neighbor provision provides that each state's SIP must contain provisions prohibiting emissions from within that state which will contribute significantly to nonattainment of the NAAQS, or interfere with maintenance of the NAAQS, in any other state.

On May 12, 2005, EPA published CAIR, which required eastern states, including Wisconsin, to prohibit emissions consistent with annual and ozone season NO_X budgets and annual sulfur dioxide (SO_2) budgets (70 FR 25152). CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter ($PM_{2.5}$) NAAQS and was designed to mitigate the impact of transported NO_X emissions, a precursor of both ozone

and $PM_{2.5}$, as well as transported SO_2 emissions, another precursor of $PM_{2.5}$. The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded CAIR to EPA for replacement in 2008. *North Carolina v. EPA*, 531 F.3d 896, *modified*, 550 F.3d 1176 (2008). While EPA worked on developing a replacement rule, implementation of the CAIR program continued as planned with the NO_X annual and ozone season programs beginning in 2009 and the SO_2 annual program beginning in 2010.

On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA published CSAPR to replace CAIR and to address the good neighbor provision for the 1997 ozone NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 2006 $PM_{2.5}$ NAAQS.[5] Through Federal Implementation Plans, CSAPR required electric generating units (EGUs) in eastern states, including Wisconsin, to meet annual and ozone season NO_X budgets and annual SO_2 budgets implemented through new trading programs. After delays caused by litigation, EPA started implementing the CSAPR trading programs in 2015, simultaneously discontinuing administration of the CAIR trading programs. On October 26, 2016, EPA published the CSAPR Update, which established, starting in 2017, a new ozone season NO_X trading program for EGUs in eastern states, including Wisconsin, to address the good neighbor provision for the 2008

[5] In a December 27, 2011 rulemaking, EPA included Wisconsin in the ozone season NO_X program, addressing the 1997 ozone NAAQS (76 FR 80760).

ozone NAAQS (81 FR 74504). The CSAPR Update is estimated to result in a 20% reduction in ozone season NO_X emissions from EGUs in the eastern United States, a reduction of 80,000 tons in 2017 compared to 2015 levels. The reduction in NO_X emissions from the implementation of CAIR and then CSAPR occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

b. Federal Emission Control Measures.

Reductions in VOC and NO_X emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following:

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. On February 10, 2000(65 FR 6698), EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements. These emission control requirements result in lower VOC and NO_X emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur, which were phased in between 2004 and 2006. By 2006, refiners and importers were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the

effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. EPA estimates that, when fully implemented, this rule will cut NO_X and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76% and 28%, respectively. NO_X and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program are estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. As projected by these estimates and demonstrated in the on-road emission modeling for the Inland Sheboygan area, the majority of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as remaining older vehicles are replaced with newer, compliant model years.

Tier 3 Emission Standards for Vehicles and Gasoline Sulfur Standards. On April 28, 2014 (79 FR 23414), EPA promulgated Tier 3 motor vehicle emission and fuel standards to reduce both tailpipe and evaporative emissions and to further reduce the sulfur content in fuels. The rule is being phased in between 2017 and 2025. Tier 3 sets new tailpipe standards for non-methane organic gases (NMOG) and NO_X, presented as NMOG+NO_X, and for particulate matter. The VOC and NO_X tailpipe standards for light-duty vehicles represent approximately an 80% reduction

from today's fleet average and a 70% reduction in per-vehicle particulate matter (PM) standards. Heavy-duty tailpipe standards represent about a 60% reduction in both fleet average VOC and NO_X and per-vehicle PM standards. The evaporative emissions requirements in the rule will result in approximately a 50% reduction from previous standards and apply to all light-duty and on-road gasoline-powered heavy-duty vehicles. Finally, the rule lowered the sulfur content of gasoline to an annual average of 10 ppm by January 2017. As projected by these estimates and demonstrated in the on-road emission modeling for the Inland Sheboygan area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Heavy-Duty Diesel Engine Rules. In July 2000, EPA issued a rule for on-road heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NO_X, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NO_X and VOC emissions. EPA has estimated future year emission reductions due to implementation of this rule. EPA estimated that by 2015 NO_X and VOC emissions would decrease nationally by 1,260,000 tons and

54,000 tons, respectively, and that by 2030 NO_X and VOC emissions will decrease nationally by 2,570,000 tons and 115,000 tons, respectively. As projected by these estimates and demonstrated in the on-road emission modeling for the Inland Sheboygan area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Non-road Diesel Rule. On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for non-road diesel engines and sulfur reductions in non-road diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. Emission standards were phased in for the 2008 through 2015 model years based on engine size. The sulfur limits for non-road diesel fuels were phased in from 2007 through 2012. EPA estimates that when fully implemented, compliance with this rule will cut NO_X emissions from these non-road diesel engines by approximately 90%. As projected by these estimates and demonstrated in the non-road emission modeling for the Inland Sheboygan area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

Non-road Spark-Ignition Engines and Recreational Engine

Standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards were phased in from model years 2004 through 2012. When fully implemented, EPA estimates an overall 72% reduction in national VOC emissions from these engines and an 80% reduction in national NO_X emissions. As projected by these estimates and demonstrated in the non-road emission modeling for the Inland Sheboygan area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896), EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards apply beginning in 2011 and are expected to result in a 15 to 25% reduction in NO_X emissions from these engines. Final Tier 3 emission standards apply beginning in 2016 and are expected to result in approximately an 80% reduction in NO_X from these engines. As projected by these estimates and demonstrated in the non-road emission modeling for the Inland Sheboygan area, some of these emission reductions

occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

2. Emission reductions.

Wisconsin is using a 2011 emissions inventory as the nonattainment year. Although the Sheboygan Haven monitor in the Inland Sheboygan area was not yet operational in 2011, this is appropriate because it was one of the years used to designate the area as nonattainment due to an exceedance of the NAAQS at the Sheboygan Kohler-Andrae monitor. Wisconsin is using 2014 as the attainment year, which is appropriate because the Sheboygan Haven monitor in the Inland Sheboygan area began operating in 2014, and the monitor attained the NAAQS in the 2014 attainment year and every year thereafter.

Point source inventory. Wisconsin created the point source emission inventory using annually reported point source emissions, EPA's Clean Air Markets Division database, and approved EPA techniques for emissions calculation (*e.g.*, emission factors) for 2011 and 2014 point source emissions from state inventory databases.

There is one EGU point source facility located in the Inland Sheboygan County area. For this facility, WDNR used the maximum daily heat input reported in EPA's Clean Air Markets Division (CAMD) database as a conservative estimate of summer day heat input during the 2011 and 2014 ozone seasons. The

summer day emissions were then calculated by multiplying the maximum daily heat input by an average NO_X and VOC emission rate.

Wisconsin tabulated the 2011 and 2014 emissions inventories for non-EGU point sources using the emissions data reported annually by each facility operator to the Wisconsin air emissions inventory (AEI). The AEI calculates emissions for each individual emissions unit or process line by multiplying fuel or process throughput by the appropriate emission factor that is derived from mass balance analysis, stack testing, continuous emissions monitoring, engineering analysis, or EPA's Factor Information Retrieval database. The emission calculations in the AEI also account for any operating control equipment.

Nonpoint (area) source inventory. For the 2011 nonattainment year, nonpoint source emissions inventory estimates were based on the 2011 National Emissions Inventory (NEI) version 2, except for the residential and commercial portable fuel containers and Stage II refueling categories.[6] Emission calculation methodologies used in developing 2011 nonpoint emissions inventory are available in EPA's 2011 NEI,

[6] For the 2011 nonattainment year, WDNR back-calculated VOC emissions for commercial portable fuel containers from WDNR's 2014 emission estimates and EPA's 2017 emission estimates. For the 2011 nonattainment year and 2014 attainment year, WDNR estimated emissions from vehicle refueling at gasoline stations (Stage II refueling) using EPA's MOVES2014a model with the same activity inputs used for the on-road modeling.

version 2 TSD.[7]

For the 2014 attainment year, nonpoint source emissions inventory estimates were based on the data interpolation between 2011 NEI version 2 and EPA's 2017 emissions modeling inventory, except for the Stage II refueling category. Methodologies used to develop 2017 emissions modeling inventory are available in EPA's 2011 version 6.3 emissions modeling platform.[8]

In order to obtain the area source emissions for the Inland Sheboygan County area, the whole county emission estimates were allocated to the partial county based on population data. The Sheboygan County population for 2014 was estimated by interpolating the population between 2013 and 2015 population data from the Wisconsin Department of Administration. The partial county population was identified based on the relative population of the Minor Civil Divisions in the Inland Sheboygan County area compared with the entire county. For 2011 and 2014, 48% of the county's population was estimated to live in the Inland Sheboygan County area.

On-road mobile source inventory. On-road mobile sources are motorized mobile equipment that are primarily used on public roadways. Examples of on-road mobile sources include cars, trucks, buses and road motorcycles. Wisconsin used the Motor

[7] https://www.epa.gov/sites/production/files/2015-10/documents/nei2011v2_tsd_14aug2015.pdf
[8] https://www.epa.gov/air-emissions-modeling/2011-version-63-platform

Vehicle Emission Simulator (MOVES), EPA's recommended mobile source model, to develop on-road emissions rates. The version used was MOVES2014b.

The modeling inputs to MOVES include detailed transportation data (*e.g.*, vehicle-miles of travel by vehicle class, road class and hour of day, and average speed distributions), which were provided by the Wisconsin Department of Transportation.

Non-road mobile source inventory. The methodology for the 2011 and 2014 non-road emissions categories were developed using EPA's MOVES2014b model, using the same summer day temperatures used for the on-road modeling. The model was run for Sheboygan County for the months of June, July and August. Summer day emissions were calculated by dividing the total emissions over these three months by 92 (the number of days in the three months). Emissions were then allocated from the full county to the Inland Sheboygan area based on surrogates such as population, land area and water area, depending on the category.

For commercial marine, aircraft and rail locomotive (MAR) categories, for the 2011 nonattainment year, the annual emissions estimates used for Sheboygan County are those in EPA's 2011 NEI version 2. For the 2014 attainment year, annual emissions estimates for Sheboygan County were based on the data interpolation between 2011 NEI version 2 and EPA's 2017

emissions modeling inventory.

Summer day emissions for these MAR categories were estimated by dividing the annual emissions by 365. This same value was used in EPA's 2011 version 6.3 emissions modeling platform. The allocation of the full county emissions to the Inland Sheboygan area is based on surrogates such as population, land area and water area, depending on the MAR category.

Using the inventories described above, Wisconsin's submittal documents changes in VOC and NO_X emissions from 2011 to 2014 for the Inland Sheboygan area. Emissions data are shown in Table 2. Data are expressed in terms of tons per summer day (TPSD). Due to rounding, some totals may not correspond with the sum of the separate categories, and some net change amounts may not correspond with the difference of the separate years.

Table 2. NO_X and VOC emissions in the Inland Sheboygan area for the 2011 nonattainment year and 2014 attainment year (TPSD).

	NO_X			VOC		
	2011	2014	Net Change (2011-2014)	2011	2014	Net Change (2011-2014)
Point – EGU	0.48	0.53	+0.05	0.04	0.04	0.00
Point – non-EGU	0.82	0.86	+0.04	1.10	1.10	0.00
Area	0.63	0.63	0.00	2.95	2.96	+0.01
On-road	2.60	1.90	-0.70	1.26	0.90	-0.36
Non-road	2.10	1.74	-0.36	2.29	1.92	-0.37
Total	6.62	5.66	-0.96	7.65	6.91	-0.74

As shown in Table 2, NO_X and VOC emissions in the Inland Sheboygan area declined by 0.96 TPSD and 0.74 TPSD, respectively, between 2011 and 2014.

3. Meteorology.

To further support Wisconsin's demonstration that the improvement in air quality is due to permanent and enforceable emission reductions and not unusually favorable meteorology, an analysis was performed by WDNR. Because the Sheboygan Haven monitor in the Inland Sheboygan area was not operational until 2014, WDNR lacks long-term meteorological data from the Sheboygan Haven site. However, in its February 11, 2020 request that EPA redesignate the Shoreline Sheboygan area, WDNR submitted a meteorological analysis based on 19 years of data collected at the Sheboygan Kohler-Andrae monitor, which is approximately 11 miles from the Haven monitor. Because data from the Sheboygan Kohler-Andrae monitor were used in the initial nonattainment designation of the area, and because this is the closest ozone monitor with sufficient data to perform a longer term analysis of ozone trends vs. meteorological indicators, this analysis is appropriate for purposes of demonstrating that the improvement in air quality in the Inland Sheboygan area is due to permanent and enforceable emissions reductions rather than favorable meteorology.

In its February 11, 2020 submittal, Wisconsin analyzed the maximum fourth-highest 8-hour ozone values for May, June, July, August, and September, for years 2001 to 2019. First, the maximum 8-hour ozone concentration at the Sheboygan Kohler-

Andrae monitor was compared to the number of days where the maximum temperature was greater than or equal to 80° F. Second, WDNR examined the relationship between the average summer temperature for each year of the 2001-2019 period and the fourth-highest 8-hour ozone concentration. These analyses show that over the last 19 years, ozone concentrations at the Kohler-Andrae monitor have decreased substantially. In contrast, temperatures have remained relatively constant, with an increase in the number of hot days and a slight decrease in the average season temperature. Because the correlation between temperature and ozone formation is well established, these data suggest that reductions in precursors are responsible for the reductions in ozone concentrations in the area, and not unusually favorable summer temperatures.

As discussed above, Wisconsin identified numerous Federal rules that resulted in the reduction of VOC and NO_X emissions from 2011 to 2014. In addition, Wisconsin's analyses of meteorological variables associated with ozone formation demonstrate that the improvement in air quality in the area between the year violations occurred and the year attainment was achieved is not due to unusually favorable meteorology. Therefore, EPA finds that Wisconsin has shown that the air quality improvements in the Inland Sheboygan area are due to permanent and enforceable emissions reductions.

D. Does Wisconsin have a fully approvable ozone maintenance plan for the Inland Sheboygan area?

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iv) of the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as EPA deems necessary, to assure prompt correction of the future NAAQS violation.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) an attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. In

conjunction with its request to redesignate the Inland Sheboygan area to attainment for the 2008 ozone NAAQS, Wisconsin submitted a SIP revision to provide for maintenance of the 2008 ozone NAAQS through 2030, more than 10 years after the expected effective date of the redesignation to attainment. As discussed below, EPA proposes to find that Wisconsin's ozone maintenance plan includes the necessary components and to approve the maintenance plan as a revision of the Wisconsin SIP.

1. Attainment inventory.

As discussed above, the Sheboygan Haven monitor in the Inland Sheboygan area has shown attainment of the standard since 2014. Wisconsin selected 2014 as the attainment emissions inventory year to establish attainment emission levels for VOC and NO_X. The attainment emissions inventory identifies the levels of emissions in the Inland Sheboygan area that are sufficient to attain the 2008 ozone NAAQS. The derivation of the attainment year emissions is discussed above in section IV.C.2. of this proposed rule. The emissions for the 2014 attainment year, by source category, are summarized in Table 2 above.

2. Has the state documented maintenance of the ozone standard in the Inland Sheboygan area?

Wisconsin has demonstrated maintenance of the 2008 ozone NAAQS through 2030 by ensuring that current and future emissions

of VOC and NO_X for the Inland Sheboygan area remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. *See Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001), *Sierra Club v. EPA*, 375 F. 3d 537 (7th Cir. 2004). *See also* 66 FR 53094, 53099-53100 (October 19, 2001), 68 FR 25413, 25430-25432 (May 12, 2003).

Wisconsin is using emissions inventories for the years 2020 and 2030 to demonstrate maintenance. 2030 was selected because it is 10 years after the expected effective date of the redesignation to attainment, and 2020 was selected to demonstrate that emissions are not expected to spike in the interim between the 2014 attainment year and the 2030 final maintenance year. The emissions inventories were developed as described below.

Wisconsin estimated the future year point source emissions by applying growth factors to the 2014 attainment year emissions inventory, as well as considering new and modified sources. Wisconsin's 2020 area source emissions were estimated primarily by interpolating between EPA's 2017 and 2028 modeling inventories, while 2030 area source emissions were estimated primarily by extrapolating EPA's 2023 and 2028 modeling inventories.

The 2020 and 2030 projected on-road and non-road emissions, except for MAR categories, were developed using the MOVES2014a

model, as was the case for the 2011 and 2014 emissions. However, for the two MAR categories of aircraft and rail locomotive, the 2020 and 2030 emissions were calculated by linearly interpolating or extrapolating from the 2017, 2023 and, where available, 2028 values from EPA's 2011 Emissions Modeling Platform, Version 6.3.

Emissions data for the 2011 nonattainment year, 2014 attainment year, 2020 interim year, and 2030 maintenance year are shown in Tables 3 and 4 below. Data are expressed in terms of TPSD. Due to rounding, some totals may not correspond with the sum of the separate categories, and some net change amounts may not correspond with the difference of the separate years.

Table 3. NO_X emissions in the Inland Sheboygan area for the 2011 nonattainment year, 2014 attainment year, 2020 interim year, and 2030 maintenance year (TPSD).

	2011	2014	2020	2030	Net Change (2014-2030)
Point - EGU	0.48	0.53	0.62	0.62	+0.09
Point – non-EGU	0.82	0.86	0.99	1.06	+0.20
Area	0.63	0.63	0.64	0.65	+0.02
On-road	2.60	1.90	1.16	0.54	-1.35
Non-road	2.10	1.74	1.22	0.86	-0.89
Total	6.62	5.66	4.63	3.73	-1.93

Table 4. VOC emissions in the Inland Sheboygan area for the 2011 nonattainment year, 2014 attainment year, 2020 interim year, and 2030 maintenance year (TPSD).

	2011	2014	2020	2030	Net Change (2014-2030)
Point - EGU	0.04	0.04	0.04	0.04	0.00
Point – non-EGU	1.10	1.10	1.26	1.36	+0.26
Area	2.95	2.96	2.90	2.83	-0.13
On-road	1.26	0.90	0.65	0.34	-0.56
Non-road	2.29	1.92	1.38	1.21	-0.71
Total	7.65	6.91	6.24	5.78	-1.13

As shown in Tables 3 and 4, NO_X and VOC emissions in the Inland Sheboygan area are projected to decrease by 1.93 TPSD and 1.13 TPSD, respectively, between the 2014 attainment year and 2030 maintenance year. Wisconsin's maintenance demonstration for the Inland Sheboygan area shows maintenance of the 2008 ozone NAAQS by providing emissions information to support the demonstration that future emissions of NO_X and VOC will remain at or below 2014 emission levels when considering both future source growth and implementation of future controls.

3. Continued air quality monitoring.

Wisconsin has committed to continue to operate the Sheboygan Haven monitor in the Inland Sheboygan area. Wisconsin has committed to consult with EPA prior to making changes to the existing monitoring network should changes become necessary in the future. Wisconsin remains obligated to meet monitoring requirements, to continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the AQS in accordance with Federal guidelines.

4. Verification of continued attainment.

Wisconsin has confirmed that it has the legal authority to enforce and implement the requirements of the maintenance plan for the Inland Sheboygan area. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone

attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area's emissions inventory. Wisconsin will continue to operate the current ozone monitor located in the Inland Sheboygan area. There are no plans to discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through revisions in the network approved by EPA.

In addition, to track future levels of emissions, Wisconsin will continue to develop and submit to EPA updated emission inventories for all source categories at least once every three years, consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Wisconsin was compiled for 2014. Point source facilities covered by Wisconsin's emission statement rule, Wisconsin Administrative Code NR 438, will continue to submit VOC and NO_X emissions on an annual basis.

5. What is the contingency plan for the Inland Sheboygan area?

Section 175A of the CAA requires that the state adopt a maintenance plan as a SIP revision that includes such

contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify: the contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the state will implement all measures with respect to the control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

As required by section 175A of the CAA, Wisconsin has adopted a contingency plan for the Inland Sheboygan area to address possible future ozone air quality problems. The contingency plan adopted by Wisconsin has two levels of response, a warning level response and an action level response.

In Wisconsin's plan, a warning level response will be triggered when an annual fourth-highest monitored value of 0.075 ppm or higher is monitored within the maintenance area. A warning level response will require Wisconsin to conduct a study. The study would include the two elements. The first

element would assess whether actual emissions have deviated significantly from the emissions projections contained in this maintenance plan for the area, along with an evaluation of which sectors and states are responsible for any emissions increases. Second, Wisconsin would investigate whether unusual meteorological conditions during the high-ozone year led to the high monitored ozone concentrations. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend. The study will consider ease and timing of implementation, as well as economic and social impacts, and will be completed no later than May 1st of the next season. Implementation of necessary controls in response to a warning level response trigger will occur within 18 months.

In Wisconsin's plan, an action level response would be triggered if a three-year design value exceeds the level of the 2008 ozone NAAQS (0.075 ppm). When an action level response is triggered, Wisconsin will determine what additional control measures are needed to assure future attainment of the 2008 ozone NAAQS. Control measures selected will be adopted and implemented within 18 months from the close of the ozone season that prompted the action level. Wisconsin may also consider if significant new regulations not currently included as part of the maintenance provisions will be implemented in a timely

manner and would thus constitute an adequate contingency measure response.

Wisconsin included the following list of potential contingency measures in its maintenance plan. However, Wisconsin is not limited to the measures on this list:

1. Anti-idling control program for mobile sources, targeting diesel vehicles
2. Diesel exhaust retrofits
3. Traffic flow improvements
4. Park and ride facilities
5. Rideshare/carpool program
6. Expansion of the vehicle emissions testing program

To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plan. Wisconsin notes that because it is not possible to determine what control measures will be appropriate in the future, the list is not comprehensive.

EPA has concluded that Wisconsin's maintenance plan adequately addresses the five basic components of a maintenance plan: attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. In addition, as required by section 175A(b) of the CAA, Wisconsin has committed to submit to EPA an updated

ozone maintenance plan eight years after redesignation of the Inland Sheboygan area to cover an additional ten years beyond the initial 10-year maintenance period. Thus, EPA finds that the maintenance plan SIP revision submitted by Wisconsin for the Inland Sheboygan area meets the requirements of section 175A of the CAA, and EPA proposes to approve it as a revision to the Wisconsin SIP.

V. Has the state adopted approvable motor vehicle emission budgets?

A. Motor Vehicle Emission Budgets

Under section 176(c) of the CAA, new transportation plans, programs, or projects that receive Federal funding or support, such as the construction of new highways, must "conform" to (*i.e.*, be consistent with) the SIP. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality problems, or delay timely attainment of the NAAQS or interim air quality milestones. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and ensuring conformity of transportation activities to a SIP. Transportation conformity is a requirement for nonattainment and maintenance areas.

Under the CAA, states are required to submit, at various times, control strategy SIPs for nonattainment areas and

maintenance plans for areas seeking redesignations to attainment of the ozone standard and maintenance areas. *See* the SIP requirements for the 2008 ozone NAAQS in EPA's December 6, 2018 implementation rule (83 FR 62998). These control strategy SIPs (including reasonable further progress plans and attainment plans) and maintenance plans must include MVEBs for criteria pollutants, including ozone, and their precursor pollutants (VOC and NO_X) to address pollution from on-road transportation sources. The MVEBs are the portion of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance. *See* 40 CFR 93.101.

Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment must be established, at minimum, for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB, if needed, subsequent to initially establishing a MVEB in the SIP.

As discussed earlier, Wisconsin's maintenance plan includes NO_X and VOC MVEBs for the Inland Sheboygan area for 2020, which

is an interim year, as well as 2030, which is the last year of the maintenance period. The MVEBS were developed as part of an interagency consultation process which includes Federal, state, and local agencies. The MVEBS were clearly identified and precisely quantified. These MVEBs, when considered together with all other emissions sources, are consistent with maintenance of the 2008 ozone NAAQS.

Table 5. MVEBs for the Inland Sheboygan area for the 2020 interim year and 2030 maintenance year (tons per hot summer day).

Year	NO_X	VOC
2020	1.16	0.65
2030	0.54	0.34

EPA is proposing to approve the MVEBs for use to determine transportation conformity in the Inland Sheboygan area, because EPA has determined that the area can maintain attainment of the 2008 ozone NAAQS for the relevant maintenance period with mobile source emissions at the levels of the MVEBs.

B. What is a safety margin?

A "safety margin" is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As noted in Tables 3 and 4, the emissions in the Inland Sheboygan area are projected to have safety margins of 1.93 TPSD for NO_X and 1.13 TPSD for VOC in 2030 (the difference between emissions in the 2014 attainment year, and projected emissions in the 2030

maintenance year, for all sources in the Inland Sheboygan area). Similarly, there is a safety margin of 1.03 TPSD for NO_X and 0.67 TPSD for VOC in 2020. Even if emissions exceeded projected levels by the full amount of the safety margin, the counties would still demonstrate maintenance since emission levels would equal those in the attainment year.

Wisconsin is not allocating any of the safety margin to the mobile source sector. Wisconsin can request an allocation to the MVEBs of the available safety margins reflected in the demonstration of maintenance in a future SIP revision.

VI. Base year emissions inventory.

As discussed above, section 182(a)(1) of the CAA requires areas to submit a base year emissions inventory. As part of Wisconsin's redesignation request for the Inland Sheboygan area, the State submitted a 2011 base year emissions inventory. This inventory is discussed above in section IV.C.2. and summarized in Table 2. EPA is proposing to approve this 2011 base year inventory as meeting the section 182(a)(1) emissions inventory requirement for the Inland Sheboygan area.

VII. Emissions statement.

Section 182(a)(3)(B) of the CAA requires states with ozone nonattainment areas to submit revisions to their SIP to require the owner or operator of each major stationary source of NO_X or VOC to provide the state with an annual statement documenting

the actual emissions of NO_X and VOC from their source. Under section 182(a)(3)(B)(ii), a state may waive the emissions statement requirement for any class or category of stationary sources which emits less than 25 tons per year of VOC or NO_X if the state, in its base year emissions inventory, provides an inventory of emissions from such class or category of sources. States and EPA have generally interpreted this waiver provision to apply to sources (without specification of a specific source class or source category) emitting less than 25 tons per year of VOC or NO_X.

Many states, including Wisconsin, adopted these emissions statement rules for the 1-hour ozone NAAQS. For these states, EPA is accepting certifications that their previously adopted emissions statement rules remain in place and are adequate to meet the emissions statement rule requirement under the 2008 ozone standard.

Under NR 438 of the Wisconsin Administrative Code, Wisconsin requires annual NO_X and VOC emission reporting from any facility in the State that emits NO_X above 10,000 pounds (5 tons) per year and VOC above 6,000 pounds (3 tons) per year. This includes facilities in nonattainment areas such as the Inland Sheboygan area for the 2008 ozone NAAQS. EPA previously approved NR 438 into the Wisconsin SIP on December 6, 1993 (58 FR 64155).

In a September 25, 2017, SIP submission, WDNR certified that this approved SIP regulation remains in place and remains enforceable for the 2008 ozone NAAQS.

Because Wisconsin has an EPA approved SIP provision requiring stationary sources to report annually their NO_X emissions over 5 tons and VOC emissions over 3 tons, EPA is proposing to approve Wisconsin's emissions statement certification SIP as meeting the requirement of section 182(a)(3)(B) of the CAA for the 2008 ozone for the Inland Sheboygan area.

VIII. Motor vehicle I/M.

The requirement to adopt a motor vehicle I/M program for Moderate ozone nonattainment areas is described in CAA section 182(b)(4) and the regulations for basic and enhanced I/M programs are found at 40 CFR part 51, subpart S. Under these cumulative requirements, states with areas classified as Moderate nonattainment for ozone with 1990 Census-defined urbanized populations of 200,000 or more are required to adopt basic I/M programs, while Serious and higher classified ozone nonattainment areas outside of the northeast ozone transport region with 1980 Census-defined urbanized populations of 200,000 or more are required to adopt enhanced I/M programs. Wisconsin's I/M program has been in operation since 1984. It was originally implemented in accordance with the 1977 CAA

Amendments and operated in the six counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha. Sheboygan County was added to the program in July 1993, resulting in a seven-county program area that has remained to the present. In 1995, Wisconsin transitioned to an enhanced I/M program. EPA approved Wisconsin's I/M program on August 16, 2001 (66 FR 42949) and approved revisions to the program on September 19, 2013 (78 FR 57501). Wisconsin's approved I/M program in the SIP is consistent with the requirements of 40 CFR part 51, subpart S, for the alternate low enhanced performance standards. In its September 25, 2017, submission, Wisconsin certified that it still meets the Federal I/M performance requirement. Therefore, EPA is proposing to find that Wisconsin has met the I/M requirement for the Inland Sheboygan area for the 2008 ozone NAAQS.

IX. VOC RACT.

Sections 172(c)(1) and 182(b)(2) of the CAA require states to implement RACT in ozone nonattainment areas classified as Moderate (and higher). Specifically, these areas are required to implement RACT for all major VOC and NO_X emissions sources and for all sources covered by a CTG. A CTG is a document issued by EPA which establishes a "presumptive norm" for RACT for a specific VOC source category. States must submit rules, or negative declarations when no such sources exist for CTG source

categories.

EPA's SIP Requirements Rule for the 2008 ozone NAAQS provides several pathways by which states may meet RACT requirements. States can meet the RACT requirements associated with the 2008 ozone NAAQS either through: (1) a certification that previously adopted RACT controls in their SIP approved by EPA under a prior ozone NAAQS continue to represent adequate RACT control levels for attainment of the 2008 ozone NAAQS; (2) through the adoption of new or more stringent regulations or controls that represent RACT control levels; and/or (3) a negative declaration if there are no source categories subject to certain CTGs within the nonattainment area.

Wisconsin previously addressed RACT requirements in the Inland Sheboygan area in developing attainment plans for the 1979 and 1997 ozone standards. Wisconsin has previously adopted RACT rules for VOC emission sources in its nonattainment areas under Wisconsin Administrative Code NR 420. Wisconsin has evaluated the previously adopted regulations and determined that these rules still satisfy RACT. Wisconsin's submittal describes the VOC RACT program for the Inland Sheboygan area. The submittal provided a list of the CTGs for which RACT requirements have been codified in Wisconsin Administrative Code.

Wisconsin has not adopted VOC RACT regulations for four

CTGs: shipbuilding and ship repair, aerospace manufacturing, fiberglass boat manufacturing, and the oil and natural gas industry. In addition, while Wisconsin has adopted rules to cover industrial adhesive use, metal and plastic parts coatings, and automobile and light-duty truck manufacturing, Wisconsin's Administrative Code does not reflect the most recently published CTG for these three categories.

Wisconsin preformed an applicability analysis for these seven categories in the Inland Sheboygan nonattainment area. Wisconsin's analysis took the following steps: first, Wisconsin relied on the Wisconsin Air Emissions Inventory to create a list of all the VOC emitting facilities in the Inland Sheboygan area. Wisconsin searched the list for facilities having the applicable CTG Standard Industrial Classification (SIC) codes. Second, Wisconsin searched the Wisconsin Air Resource Program database, which contains facility and emissions information about all Wisconsin companies that have obtained an air pollution control permit, for sources located within the partial county nonattainment area with the applicable SIC codes. Third, Wisconsin searched the membership directories found on the applicable SIC code organizations' websites. Finally, Wisconsin searched the ReferenceUSA database for facilities located within the Inland Sheboygan area with the SIC codes listed above.

Wisconsin's analysis determined that there are no

facilities in the Inland Sheboygan area for the shipbuilding and ship repair, aerospace manufacturing, fiberglass boat manufacturing, oil and natural gas industry, miscellaneous industrial adhesives, metal and plastic parts coatings, and automobile and light-duty truck assembly coatings categories. These are the seven categories in which Wisconsin has not adapted the most recently published CTGs. Wisconsin provided Negative Declarations for these CTG categories.

In summary, Wisconsin has certified that the VOC RACT rules previously adopted by the state and approved into Wisconsin's SIP continue to meet VOC RACT requirements for the area under the 2008 ozone NAAQS. Wisconsin has adequately documented its analysis of sources in the area to support its negative declarations for categories in which Wisconsin has not adopted the most recently published CTGs. EPA finds Wisconsin's VOC RACT SIP submittal to be approvable as meeting the Moderate VOC RACT requirements of section 182(b)(2) of the CAA.

X. NO_X RACT.

Section 182(f) of the CAA requires RACT level controls for major stationary sources of NO_X located in Moderate ozone nonattainment areas. Section 302 of the CAA defines a major stationary source as any facility which has the potential to emit 100 tons per year of any air pollutant. RACT is defined as the lowest emission limitation that a particular source is

capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. On October 19, 2010, EPA approved Wisconsin's NO_X RACT program into the SIP for purposes of the 1997 ozone NAAQS (75 FR 64155). Wisconsin's NO_X RACT requirements are codified at NR 428.20 to 428.26 of the Wisconsin Administrative Code. Wisconsin's NO_X RACT rules are applicable to major stationary sources of NO_X located in Wisconsin's Moderate ozone nonattainment areas, including the Inland Sheboygan area. On September 25, 2017, WDNR submitted a SIP certifying that Wisconsin's SIP-approved NO_X RACT rules meet the NO_X RACT requirements of CAA section 182(f) for the Inland Sheboygan area for the 2008 ozone NAAQS. Because Wisconsin has EPA-approved NO_X RACT rules applicable to Inland Sheboygan area sources in its SIP, EPA is proposing to find that Wisconsin has satisfied the NO_X RACT requirements for the Inland Sheboygan area for the 2008 ozone NAAQS.

XI. What is EPA's analysis of Wisconsin's redesignation request for the 1997 ozone NAAQS?

On March 6, 2015, EPA revoked the 1997 ozone NAAQS along with associated designations and classifications (80 FR 12264). Thus, the Inland Sheboygan area has no designation under the 1997 ozone NAAQS that can be changed through redesignation as governed by CAA section 107(d)(3)(E). Therefore, EPA is not

proposing a redesignation of the Inland Sheboygan area for the 1997 ozone NAAQS under CAA section 107(d)(3)(E).

However, in evaluating Wisconsin's request to redesignate the Inland Sheboygan area under the 2008 ozone standard, EPA determined that the area has met the five criteria in section 107(d)(3)(E) for redesignation, including the requirement that Wisconsin meet all applicable requirements of section 110 and part D of the CAA for the Inland Sheboygan area, and have a fully approved SIP for the area under section 110(k) of the CAA. As part of that evaluation, EPA has determined that Wisconsin has a fully approved SIP and meets the anti-backsliding requirements under the 1997 ozone standard as codified at 40 CFR 51.1105(a)(1) and 40 CFR 51.1100(o).

XII. What Action is EPA Taking?

EPA is proposing to determine that the Inland Sheboygan nonattainment area is attaining the 2008 ozone NAAQS, based on quality-assured and certified monitoring data for 2017-2019. EPA is proposing to determine that upon final approval of Wisconsin's 2011 base year emissions inventory, emission statement certification SIP, VOC RACT SIP, I/M certification SIP, and NO_X RACT certification SIP, the area will have met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Inland Sheboygan area from nonattainment to attainment for

the 2008 ozone NAAQS. EPA is also proposing to approve, as a revision to the Wisconsin SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Inland Sheboygan area in attainment of the 2008 ozone NAAQS through 2030. EPA finds adequate and is proposing to approve the newly-established 2020 and 2030 MVEBs for the Inland Sheboygan area.

XIII. Statutory and Executive Order Reviews.

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, 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), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: April 15, 2020.

Cheryl Newton,
Deputy Regional Administrator, Region 5.

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