

EPA's Final Designations for the 2015 Ozone National Ambient Air Quality Standard

May 2018

This fact sheet provides a summary of the 2015 ozone National Ambient Air Quality Standard (NAAQS) designations process and describes the general implications of nonattainment designations. This fact sheet is provided for informational purposes only and is not intended to be a complete description of the statutory and regulatory requirements associated with ozone nonattainment areas.

1. What is the 2015 ozone National Ambient Air Quality Standard (NAAQS)?

- The Clean Air Act requires EPA to set NAAQS for certain pollutants to protect public health. EPA revised the ground-level ozone NAAQS in 2015, establishing a more stringent primary NAAQS of 70 parts per billion (ppb). The previous, 2008 ozone NAAQS was set at 75 ppb.
- The 2008 ozone NAAQS remains in effect until revoked by EPA and nonattainment areas under this standard are still subject to the relevant requirements; there is no currently prescribed or known timeframe for revocation of the 2008 standard (see question 9).

2. What does it mean when EPA “designates” areas for a NAAQS?

- The Clean Air Act requires EPA to designate areas it determines do not meet a NAAQS as “nonattainment” of the standard. EPA designates areas that it determines meet the NAAQS as either “attainment” or “attainment/unclassifiable”.
- Nonattainment designations are based on a 3-year snapshot of data in time. For example, for the 2015 ozone NAAQS, EPA is making area designations based on 2014-2016 air monitoring data.

3. How does EPA determine what areas should be designated as nonattainment?

- EPA considers a variety of types of information when making nonattainment designations, including air quality monitoring data, recommendations submitted by the states and tribes, and other technical information. Specifically, EPA’s guidance says the agency will consider five factors when determining nonattainment areas: air quality data, emissions and emissions-related data, meteorology, geography and topography, and jurisdictional boundaries.
- EPA’s guidance does not include the economic impact of nonattainment designations as a factor it considers when designating nonattainment areas.

4. What information did the state provide EPA as it developed intended designations for the 2015 ozone NAAQS?

- Per the Clean Air Act, states recommend designations to EPA following promulgation of a new NAAQS. In September 2016, Governor Walker recommended that the entire state of Wisconsin be designated as attainment of the 2015 ozone NAAQS.
- In April 2017, DNR provided supplemental information to EPA in support of the governor’s recommendation showing, among other things, the maximum extent of any 70 ppb ozone areas based on the latest science and data. DNR’s submittal

included detailed technical information demonstrating that the elevated ozone levels in Wisconsin are due primarily to out-of-state emissions and unique regional meteorological factors. The submittal can be found at <https://dnr.wi.gov/topic/AirQuality/Ozone.html>.

- In February 2018, DNR submitted comments to EPA in response to EPA’s intended nonattainment area designations. These comments reiterated the governor’s recommendations of attainment for all areas of Wisconsin and reiterated reflecting the maximum extent of the 70 ppb ozone areas. This document included additional technical support for these recommendations and can be found at <https://dnr.wi.gov/topic/AirQuality/Ozone.html>.

5. What areas of the state did EPA designate as nonattainment for the 2015 ozone NAAQS?

- On May 1, 2018, EPA notified the state that it is designating the areas in Wisconsin described in Table 1 as nonattainment of the 2015 ozone NAAQS.
- EPA is classifying all of the Wisconsin nonattainment areas as “marginal” nonattainment.
- These designations will be effective 60 days from publication of the rule in the Federal Register.

Table 1. EPA designated nonattainment areas in Wisconsin for the 2015 ozone NAAQS

County/Area	EPA’s Final Nonattainment Area	Comment
Door	Newport State Park boundary.	This area is smaller than EPA proposed.
Sheboygan	Inclusive and east of the following roadways going from the northern county boundary to the southern county boundary: Highway 43, Wilson Lima Road, Minderhaud Road, County Road KK/Town Line Road, N 10th Street, County Road A S/Center Avenue, Gibbons Road, Hoftiezer Road, Highway 32, Palmer Road/Smies Road/Palmer Road, Amsterdam Road/County Road RR, Termaat Road.	This area is smaller than EPA proposed.
Manitowoc	Inclusive and east of the following roadways going from the northern county boundary to the southern county boundary: Saxonburg Road, Zander Road, Saxonburg Road, Tapawingo Road, Tannery Road, E County Road V, Tannery Road, E Hillcrest Road, Sunset Drive, County Road VV, Manitou Drive, County Road B, Goodwin Road, N Rapids Road, S Rapids Road, Calumet Avenue, Hecker Road, Silver Creek Road, Gass Lake Road, Clover Road, Center Road, County Road F, Westview Road, County Road X, S Union Road.	This area is smaller than EPA proposed.
Northern Milwaukee/Ozaukee Shoreline	<u>Milwaukee County:</u> Northeastern corner of Milwaukee County bounded by and inclusive of the following roadways going from the northern county border to Lake Michigan: Highway 57/N. Sherman Blvd/N. 43rd Street to W. Mill Road to Highway 57/N. Green Bay Ave to W. Bender Road/Devon Street to N. Santa Monica Blvd to E. Belle Ave to southern boundary of Klode Park. <u>Ozaukee County:</u> Inclusive and east of County Road KW, Cedar Beach Road, 6 Mile Road, County Road A, Lovers Land Road*, Woodland Road, County Road KK, Willow Road, Highway 57, County Road W, N. Riverside Drive, E. Green Bay Avenue, S. Main Street, N. Green Bay Road, 12th Avenue, Wisconsin Avenue, Green Bay Road, S. Main Street, N. Cedarburg Road/Highway 57.	EPA had proposed that all of Milwaukee and Ozaukee be designated as nonattainment.
Kenosha	Inclusive and east of 88th Avenue.	This is smaller than the current, 2008 ozone nonattainment area and

		smaller than EPA proposed. This partial county is designated as part of the IL-IN-WI metro Chicago nonattainment area.
Racine, Waukesha and Washington	(EPA is finalizing designations of “Attainment/Unclassifiable” for the entirety of these counties.)	EPA had proposed nonattainment for all three counties.

* EPA’s final rule says “Lovers Land Road” but ‘Lovers Lane Road” may have been the intended street name.

6. What about other areas of the state?

- EPA has designated the areas of the state not described in Table 1 as attainment/unclassifiable for this NAAQS.

7. What are the permitting implications of nonattainment designations?

- New or modified major sources of emissions in ozone nonattainment areas are subject to Nonattainment New Source Review (NNSR) permitting requirements. A major source is defined by its level of air pollutant emissions. Since these areas are being classified as “marginal” nonattainment, the major source threshold is lowered from 250 to 100 tons per year each of the ozone precursors, volatile organic compounds (VOC) and nitrogen oxides (NOx), and the following permitting requirements apply:
 - Lowest Achievable Emission Rate (LAER), which by law does not consider cost, must be applied to each emission unit emitting VOC and/or NOx.
 - Major construction covered by NNSR also requires the permit applicant to offset the project's VOC and NOx emissions with reductions found elsewhere in the nonattainment area according to a ratio that depends on the severity of nonattainment. Since these areas are being classified as “marginal” nonattainment, the offset ratio in these areas is 1.1:1.¹
- Construction permits issued prior to final designations are not subject to NNSR requirements. Construction permits are valid for 18 months, but can be extended as necessary. A source may operate under a construction permit, so long as an operation permit application has been submitted.

8. What is the state required to do now that nonattainment areas are finalized in Wisconsin?

- Any areas designated as nonattainment for the 2015 ozone NAAQS will need to attain the standard by a date specified in the Clean Air Act. For these areas, this date is likely to be around July 2021.
- Once the nonattainment designations are effective, the state is required to submit a State Implementation Plan (SIP) to EPA. The Clean Air Act specifies the state must take certain actions to do this, including implementing the NNSR permitting program as described above, submitting certain emissions inventories and ensuring federally-funded transportation projects and plans conform to the state SIP.
- DNR will not be certain of attainment and SIP submittal dates, or what the specific state submittal requirements may be, until EPA releases its implementation rule for this NAAQS.

¹ In the existing, 2008 ozone NAAQS nonattainment areas in Sheboygan County and Kenosha County (partial), the offset ratio will remain 1.15:1 since they remain in “moderate” nonattainment classification for the 2008 ozone NAAQS.

9. How will designations for the 2015 ozone NAAQS affected areas currently designated as nonattainment for the 2008 ozone NAAQS?

- Wisconsin currently has two areas in nonattainment of the 2008 ozone NAAQS (75 ppb): all of Sheboygan County, and the part of Kenosha County east of I-94.
- EPA action on the 2015 standard does not impact these current nonattainment areas. All nonattainment requirements for the 2008 ozone NAAQS continue to apply in these areas until the standard is revoked.
- EPA has proposed revoking the 2008 ozone NAAQS either one year after the designations for the 2015 ozone NAAQS are effective, or on a case-by-case basis as individual 2008 ozone NAAQS nonattainment areas achieve that standard. EPA has not finalized its plans for revoking the 2008 ozone NAAQS, but has said it will address revocation in a separate action.
- DNR must also continue to implement the state's federally-approved maintenance plans in areas of the state that have attained previous ozone standards.² This includes implementing VOC and NOx Reasonably Available Control Technology (RACT), vehicle emission testing programs, and reformulated gasoline requirements, as appropriate.

10. Where can I find additional information?

- EPA's designations information for Wisconsin can be found at <https://www.epa.gov/ozone-designations/additional-designations-2015-ozone-standards>.
- DNR's submittals to EPA, this fact sheet, and maps showing EPA's final designations can be found at <https://dnr.wi.gov/topic/AirQuality/Ozone.html>.
- Information about air permitting options in Wisconsin can be found at <http://dnr.wi.gov/topic/AirPermits/Options.html>.

11. Who at DNR can I contact if I have questions?

- Questions regarding the potential impact of nonattainment on specific facilities, companies, or emission sources should be directed to the appropriate Air Management Regional Supervisor. Current supervisor county assignments and contact information can be found at <http://dnr.wi.gov/topic/AirQuality/documents/Supervisors.pdf>.
- General questions about 2015 ozone NAAQS nonattainment implementation or State Implementation Plan requirements can be directed to David Bizot, Chief, Air Quality Planning and Standards Section (david.bizot@wisconsin.gov or 608-267-7543).

DISCLAIMER —This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

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² These Wisconsin counties were designated nonattainment for either the 1979 ozone NAAQS, the 1997 ozone NAAQS, or both: Door, Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha. The state's federally-approved plans ensure former nonattainment areas maintain the standard in the future.



WISCONSIN DEPARTMENT OF NATURAL RESOURCES NOTICE OF FINAL GUIDANCE & CERTIFICATION

Pursuant to ch. 227, Wis. Stats., the Wisconsin Department of Natural Resources has finalized and hereby certifies the following guidance document.

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Fact Sheet on Final Designations for the 2015 Ozone National Ambient Air Quality Standard

PROGRAM/BUREAU

Air Management

STATUTORY AUTHORITY OR LEGAL CITATION

Section 285.23, Wisconsin Statutes; Chapter NR 408, Wisconsin Administrative Code

DATE SENT TO LEGISLATIVE REFERENCE BUREAU (FOR PUBLIC COMMENTS)

December 23, 2019

DATE FINALIZED

2020

No comments were received during the comment period 23DEC2019 to 13JAN2020

DNR CERTIFICATION

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

January 17, 2020

Signature

Date