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September 21, 2016

Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code: 1101A
Washington, DC 20460

Subject: Designation of 2015 Ozone National Ambient Air Quality Standard (NAAQS)
Nonattainment Areas in Wisconsin

Dear Administrator McCarthy:

On October 1, 2015, the United States Environmental Protection Agency (EPA) revised both the primary and secondary ozone National Ambient Air Quality Standards (NAAQS). I am sending this letter in accordance with section 107(d)(1)(A) of the Clean Air Act, which requires the governor of each state to submit designation recommendations within one year from the date of promulgation of a new federal standard. EPA's 2015 ozone final rule is currently being litigated by several states, including Wisconsin. Submission of these recommendations should not be considered as support of the 2015 ozone rule.

Recommendation

Based on the rationale provided below, I recommend that all counties in Wisconsin be designated as attainment for the 2015 ozone NAAQS.

Rationale

This recommendation is based on the following considerations:

1. Ozone levels in Wisconsin have greatly improved.

Wisconsin has historically been a national leader in improving air quality and has put in place many important air pollution regulations to reduce emissions. These actions have resulted in a measurable improvement in monitored ozone levels. With two exceptions, all areas of Wisconsin are currently attaining the previous (2008) ozone standard, and the state recently submitted a request to EPA to redesignate one of the two remaining areas (eastern Kenosha County) to attainment. Given the positive trend in statewide ozone levels, and the continued cost and effort needed to implement the 1997 and 2008 ozone standards, it is unnecessary for EPA to designate additional nonattainment areas at this time.

2. Wisconsin has already significantly reduced ozone-causing emissions.

Wisconsin has enacted many permanent and enforceable control measure programs to reduce the nitrogen oxides (NOx) and volatile organic compound (VOC) emissions that contribute to ozone formation. This includes NOx reasonably available control technology (RACT), VOC RACT, and EPA's transport rules for NOx. State-implemented programs have been very effective in reducing VOC emissions from mobile sources.

Wisconsin also operates one of the most well-controlled utility systems in the country. Many facilities operated by Wisconsin utilities are in binding agreements to operate their selective catalytic reduction controls (SCRs) and to utilize low-NOx combustion systems. The state also has adopted two iterations of NOx emission limits for large point sources within previous ozone nonattainment areas.

Given the many actions Wisconsin has already taken to reduce emissions contributing to ozone, it is both unnecessary and unwarranted for EPA to designate additional nonattainment areas in the state. Such action would require these areas to seek additional reductions that, while costly and burdensome, would be unlikely to improve ozone conditions (see below).

3. Elevated ozone levels in Wisconsin are primarily due to emissions originating from other states.

As the state has repeatedly noted to EPA, Wisconsin's air quality is heavily impacted by ozone precursors originating from out of state.¹ Wisconsin's lakeshore counties, in particular, continue to suffer the consequences of diminished air quality and resulting nonattainment due to emissions originating beyond Wisconsin's borders. EPA's limited efforts to resolve this problem have proved to be inadequate. The result of EPA's inaction is that many areas of Wisconsin are threatened with the additional regulation that comes with a nonattainment designation with no ability to meaningfully influence the situation.

An example of this circumstance is Sheboygan County. Regional modeling estimates that Wisconsin sources are responsible for only 13% of the ozone measured at Sheboygan Kohler-Andrae monitor. EPA's own modeling for the proposed Cross-State Air Pollution Rule Update (80 FR 75706) predicts that Sheboygan will not attain the 2008 ozone NAAQS, primarily due to the out-of-state emissions the rule purports to control. As stated above, Wisconsin has already taken a wide range of actions to reduce emissions from sources it can control. Unless and until EPA takes action to fully address downwind state attainment issues, Wisconsin sources must not be required to reduce emissions further in order to meet EPA's new standard.

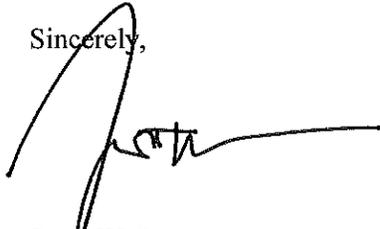
These reasons justify a designation of "attainment" for all counties in Wisconsin for this NAAQS. However, if EPA elects to designate areas of the state as nonattainment, EPA should ensure that the geographic areas covered by such designations are minimized through the use of partial county designations, alternative designations (e.g., rural transport areas), or other flexibilities that may be available. The state reserves the right to update these recommendations, or provide additional information to EPA, if deemed appropriate.

Please contact Gail Good, Director of the Air Management Program at the Wisconsin Department of Natural Resources, at (608) 264-8537 if you have any questions related to this letter. Thank you for

¹ See Wisconsin's comments on EPA's 2008 ozone proposed rule (March 17, 2015) and request for reconsideration of EPA's final rule (December 18, 2015).

the opportunity to submit the State of Wisconsin's recommendations on this important air quality matter.

Sincerely,



Scott Walker
Governor

cc: Robert Kaplan, Acting Administrator, Region V, US EPA
Senator Robert Cowles, Chair, Senate Committee on Natural Resources and Energy
Representative Jeffrey Mursau, Chair, Assembly Committee on Environment and Forestry
Cathy Stepp, Secretary, Department of Natural Resources
Patrick Stevens, Administrator, Air & Waste Division, Department of Natural Resources
Gail Good, Director, Air Management Program, Department of Natural Resources