

Briefing Paper: 2015 Ozone Standard and Racine County
9/21/2017

Position

1. EPA should not designate the entirety Racine County as nonattainment of the 2015 ozone NAAQS, on October 1 or otherwise.
2. EPA should ultimately designate Racine County as attainment of the standard.
3. If, at any time, EPA imposes nonattainment on Racine County, any nonattainment area should be confined to the scientific-supported narrow band along the lakeshore, congruent with Wisconsin's April 2017 submittal to EPA.
4. If additional time is needed to get input from the state on an appropriate boundary, EPA should use its authority to delay the county's designation.

Background

1. EPA is expected to soon make initial area designations for the 2015 ozone National Ambient Air Quality Standard (NAAQS) (70 ppb). The Clean Air Act (CAA) deadline for making these designations is October 1, but EPA has not provided states any information about what might happen on that date. This is complicated by recent EPA actions:
 - On June 6, EPA notified states it was delaying designations by 1 year; on August 2, EPA rescinded that delay.
 - The CAA requires EPA to notify states at least 120 days in advance if the agency is going to finalize any designations that differ from state recommendations. EPA has not made any such notifications to date.
2. Governor Walker has formally recommended that EPA designate all of Wisconsin as attainment for the 2015 standard because ozone levels in the state are due to transported pollutants, exacerbated by the effects of Lake Michigan, and are not meaningfully affected by in-state emissions.
3. Wisconsin currently has several monitors with design values above the 2015 ozone standard. These monitors are located in lakeshore counties; the elevated ozone values measured at these monitors are due primarily to the reasons listed above.
4. For the 2008 ozone standard, EPA designated only part of Kenosha County nonattainment in recognition that high ozone levels in the county are limited to that area near Lake Michigan.
5. In April 2017, Wisconsin submitted a comprehensive technical support document to EPA demonstrating that ozone concentrations that potentially exceed the 2015 ozone standard are limited to narrow areas along the lakeshore.
6. Racine County does not have a 2014-16 design value since the need to relocate the county's monitor resulted in no 2014 ozone data being collected. The draft 2015-2017 design value is 73 ppb. EPA guidance states that monitors with incomplete data may be designated "unclassifiable." If EPA does

not designate Racine County as attainment for the 2015 ozone NAAQS, EPA could consider an unclassifiable designation for the county based on the lack of 2014 data.

- EPA could also use CAA sec. 107(d)(1)(B)(i) to extend the initial designation of Racine County by 1 year (to Oct. 1, 2018) due to “insufficient information” being available.
7. If EPA elects to designate any part of Racine County as nonattainment for the 2015 standard, the nonattainment area must be limited to the area of the county known to experience ozone design values above 70 ppb. Wisconsin’s April 2017 submittal (pages 50-51) describes how, based on science and data, the 70 ppb contour would be located closer to the lakeshore in Racine County than the 4.2-mile distance described for Kenosha County in that same document.
 8. In Kenosha County, the 2008 ozone nonattainment partial county area boundary was set following the historical practice of using the features like legal jurisdictional boundaries or immovable landmarks (e.g., roadways). Any partial nonattainment area boundary in Racine County should align with the science-based, “distance from the shoreline” approach described in Wisconsin’s April 2017 submittal, whether EPA uses this traditional approach or some alternative method.

References:

- Sept. 21, 2016 letter from Governor Scott Walker to EPA Administrator Gina McCarthy re: area designation recommendations for the 2015 ozone NAAQS.
- April 20, 2017 submittal from Wisconsin DNR Air Director Gail Good to Acting EPA Region 5 Administrator Robert Kaplan re: supplemental information for 2015 ozone NAAQS designations.