

U.S. Code citation	Description	Maximum penalty (in Dollars)
12 U.S.C. 93(b), 504, 1817(j)(16), 1818(i)(2), and 1972(2)(F)	Tier 1	6,500
	Tier 2	32,500
	Tier 3	1,250,000
12 U.S.C. 164 and 3110(c)	Tier 1	2,200
	Tier 2	27,000
	Tier 3	1,250,000
12 U.S.C. 1832(c) and 3909(d)(1)		1,100
12 U.S.C. 1884		110
12 U.S.C. 3110(a)		32,500
15 U.S.C. 78u-2(b)	Tier 1 (natural person)	6,500
	Tier 1 (other person)	65,000
	Tier 2 (natural person)	65,000
	Tier 2 (other person)	325,000
	Tier 3 (natural person)	130,000
	Tier 3 (other person)	625,000
	Per violation	385
42 U.S.C. 4012a(f)(5)	Per year	125,000

(b) The adjustments in § 19.240(a) apply to violations that occur after December 10, 2004.

Dated: November 3, 2004.

**Julie L. Williams,**

*Acting Comptroller of the Currency.*

[FR Doc. 04-24974 Filed 11-9-04; 8:45 am]

**BILLING CODE 4810-33-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Docket No. FAA-2004-18821; Airspace Docket No. 04-ACE-47]

**Modification of Class E Airspace; St. Francis, KS**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** This document confirms the effective date of the direct final rule which revises Class E airspace at St. Francis, KS.

**EFFECTIVE DATE:** 0901 UTC, January 20, 2005.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE-520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329-2525.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with a request for comments in the **Federal Register** on September 24, 2004 (69 FR 57170). The **Federal Register** subsequently published a correction to the direct final rule on October 4, 2004

(69 FR 59303). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on January 20, 2005. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on October 28, 2004.

**Anthony D. Roetzel,**

*Acting Area Director, Western Flight Services Operations.*

[FR Doc. 04-24976 Filed 11-9-04; 8:45 am]

**BILLING CODE 4910-13-M**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Docket No. FAA-2004-18820; Airspace Docket No. 04-ACE-46]

**Modification of Class E Airspace; Kennett, MO**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** This document confirms the effective date of the direct final rule which revises Class E airspace at Kennett, MO.

**EFFECTIVE DATE:** 0901 UTC, January 20, 2005.

**FOR FURTHER INFORMATION CONTACT:** Brenda Mumper, Air Traffic Division, Airspace Branch, ACE-520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329-2524.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with a request for comments in the **Federal Register** on September 28, 2004 (69 FR 57839). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on January 20, 2005. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on October 28, 2004.

**Anthony D. Roetzel,**

*Acting Area Director, Western Flight Services Operations.*

[FR Doc. 04-24975 Filed 11-9-04; 8:45 am]

**BILLING CODE 4910-13-M**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52**

[R05-OAR-2004-WI-0001; FRL-7829-4]

**Approval and Promulgation of Implementation Plan; Wisconsin**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving revisions to Wisconsin's State Implementation Plan (SIP) regarding the control of nitrogen oxide (NO<sub>x</sub>) emissions submitted on May 25, 2004. On August 29, 2003, the EPA published a final rulemaking approving the emission averaging program for existing sources subject to the state's rule limiting NO<sub>x</sub> emissions in southeast Wisconsin. The SIP revisions modify language to clarify which sources are eligible to participate in the NO<sub>x</sub> emission averaging program. In addition, the revision creates a separate categorical emission limit for new combustion turbines burning biologically derived gaseous fuels.

**DATES:** This "direct final" rule is effective on January 10, 2005 unless EPA receives adverse written comments by December 10, 2004. If EPA receives adverse comment, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit comments, identified by Regional Material in EDocket ID No. R05-OAR-2004-WI-0001, by one of the following methods: *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

*Agency Web site:* <http://docket.epa.gov/rmepub/index.jsp> material in EDocket (RME), EPA's electronic public docket and connect system, is EPA's preferred method for receiving comments. Once in the system, select "quick search" then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

*E-mail:* [bortzer.jay@epa.gov](mailto:bortzer.jay@epa.gov).

*Fax:* (312) 886-5824.

*Mail:* You may send written comments to: J. Elmer Bortzer, Chief, Air Programs Branch, (AR-18J), Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

*Hand delivery:* Deliver your comments to: J. Elmer Bortzer, Chief, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office's normal hours of operation, which are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

*Instructions:* Direct your comments to Regional Materials in EDocket (RME) ID No. R05-OAR-2004-WI-0001. EPA's policy is that all comments received

will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information of which the disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through Regional Material in EDocket (RME), [regulations.gov](http://regulations.gov), or e-mail. The EPA RME Web site and the federal [regulations.gov](http://regulations.gov) Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of the related proposed rule which is published in the Proposed Rules section of this **Federal Register**.

*Docket:* All documents in the electronic docket are listed in the Regional Materials in EDocket (RME) index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information of which the disclosure is restricted by statute. Publicly available docket materials are available either electronically in RME or in hard copy at Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886-6031 before visiting the Region 5 office.) This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Charles Hatten, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), EPA Region

5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031. [hatten.charles@epa.gov](mailto:hatten.charles@epa.gov).

**SUPPLEMENTARY INFORMATION:**

I. General Information

- A. Does This Action Apply To Me?
- B. How Can I Get Copies of This Document and Other Related Information?
- C. How and to Whom Do I Submit Comments?

II. What Action Is EPA Taking Today?

III. Why Is This Request Approvable?

IV. Statutory and Executive Order Review

**I. General Information**

*A. Does This Action Apply to Me?*

This action is rulemaking on two revisions to the Wisconsin SIP for the control of NO<sub>x</sub> emissions from stationary sources as required by State rule NR 428. The rule applies to existing sources in eight of the counties in the Milwaukee-Racine area (Kenosha, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Washington, and Waukesha counties), and to new sources in six of the eight counties (Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha).

One revision modifies language to clarify which units are eligible for demonstrating compliance through emissions averaging. The emissions averaging provisions apply only to existing electric utility boilers in the Milwaukee-Racine ozone nonattainment area (Kenosha, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Washington, and Waukesha counties). The second revision creates a new NO<sub>x</sub> categorical limit for newly installed combustion turbines burning biologically derived gaseous fuel. Sources affected by the new categorical NO<sub>x</sub> limit are landfill operations, wastewater treatment plants and digester facilities specifically designed to generate gaseous fuel. The new NO<sub>x</sub> categorical limit for newly installed combustion turbines burning biologically derived fuel applies only to new sources located in Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties in southeastern Wisconsin. The revisions have been adopted into the state administrative code and became effective on January 1, 2004.

*B. How Can I Get Copies of This Document and Other Related Information?*

1. The Regional Office has established an official public rulemaking file for this action that is available both electronically and in hard copy form at the Regional office. The electronic public rulemaking file can be found under Regional Material in EDocket

(RME) ID No. R05-OAR-2004-WI-0001. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The hard copy version of the official public rulemaking file is available for public viewing at the Air Programs Branch, Air and Radiation Division, EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding federal holidays.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the regulations.gov Web site located at <http://www.regulations.gov>, where you can find, review, and submit comments on federal rules that have been published in the **Federal Register**, the government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office in the format that EPA receives them, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

### C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking Region 5 in Regional Material in Edocket "R05-OAR-2004-WI-0001" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment

period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

For detailed instructions on submitting public comments and on what to consider as you prepare your comments see the **ADDRESSES** section and the section I General Information of the **SUPPLEMENTARY INFORMATION** section of the related proposed rule, which is published in the Proposed Rules section of this **Federal Register**.

## II. What Action Is EPA Taking Today?

EPA is approving, as part of the Wisconsin ozone SIP, certain sections of Wisconsin rule NR 428, Control of Nitrogen Oxide Emissions. These revisions refer to the addition of language to clarify which sources are eligible to participate in the emissions averaging program.

In addition EPA is approving language that creates a separate categorical emission limit for new combustion turbines burning biologically derived gaseous fuel.

### *Clarification of Emissions Averaging Eligible Sources*

The current version of NR 428 contained in the SIP allows utilities to demonstrate compliance with NO<sub>x</sub> emission limitations by averaging emissions over multiple units. The rule defines eligible units through the combination of two provisions. NR 428.06(2)(a), the introduction to the averaging program, specifies that a unit must be subject to emission limitations for existing units under NR 428.03. NR 428.06(2)(e)3 specifies that, to be eligible for the averaging program a unit must be allotted a portion of the total 15,912 tons of NO<sub>x</sub> emissions allocated by the department based on fuel consumption for 1995 through 1997. This mass of NO<sub>x</sub> emissions is the quantity determined by the Wisconsin Department of Natural Resources for electric utility units with emission limitations under NR 428.03 and which have operated in the ozone nonattainment area during the 1995 to 1997 time frame. Through these two provisions the affected sources are defined as 17 units at five facilities in the nonattainment area, owned by We-Energies, Alliant Energy, and Wisconsin Public Service.

Section NR 428.06(2)(a) is amended to specify that an eligible unit must be subject to the emission limitations for utility boilers under NR 428.03(a). The amendment eliminates the need to reference two provisions in determining eligible sources.

Eligible sources must still receive a proportion of the total 15,912 tons of NO<sub>x</sub> emissions as stated under the NR 428.06(2)(e)3. This revision does not change the population of the sources currently eligible under the existing SIP.

### *Categorical NO<sub>x</sub> Emission Limit for Newly Installed Combustion Turbines Fired With Biologically Derived Gaseous Fuel*

In this SIP revision, EPA is also approving a new categorical NO<sub>x</sub> emission limit for newly installed combustion turbines burning biologically derived gaseous fuel. This section of the rule applies to new sources installed after January 1, 2004, in six of the eight counties of the Milwaukee-Racine ozone nonattainment area: Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha.

The Wisconsin Department of Natural Resources (DNR) created this new categorical NO<sub>x</sub> emission limit because sources looking to install new combustion turbines would not be able to comply with the limit for natural gas-fired units that would otherwise apply under the provision of NR 428.04(2)(g)(1)(c). Currently, a newly installed simple cycle combustion turbine with a maximum design output less than 40 megawatts and burning biologically derived gaseous fuel is subject to the SIP emission limitation of 25 parts per million (ppmdv) of NO<sub>x</sub> at 15 percent oxygen under NR 428.04(2)(g)(1)(c), which was established for burning any type of "gaseous fuel". In the original development of NR 428, the Wisconsin DNR anticipated biologically derived gaseous fuels being combusted in reciprocating engines and not in a combustion turbine. Therefore, biologically derived gaseous fuels were not addressed in establishing the combustion turbine emission limit of 25 ppmdv of NO<sub>x</sub> at 15 percent oxygen. Instead, the emission limit was established based solely on the combustion of fossil gaseous fuels such as natural gas or propane.

The Wisconsin DNR has determined that a separate categorical standard of 35 ppmdv at 15 percent oxygen is appropriate for a combustion turbine burning landfill gas or any other biologically derived fuel. Comparable alternatives of controlling emissions from sources that generate biologically derived gaseous fuel, as currently allowed under the SIP, are likely to result in greater NO<sub>x</sub> emissions than the combustion turbine. Landfills and wastewater digester plants generate biologically derived gaseous fuel as a by-product. Instead of destroying the gas

by flaring, these facilities prefer to generate electricity to drive their pumping and gas collection systems. The units capable of burning the biologically derived gaseous fuel and generating electricity are either a combustion turbine or spark ignition reciprocating engine. However, the actual NO<sub>x</sub> emission rate of the reciprocating engine is significantly higher than the new categorical limit of the combustion turbine.

The use of a combustion turbine's higher energy efficiency and lower overall emissions potentially results in further environmental benefit. First, the turbine generates energy more efficiently than a reciprocating engine or power boiler burning biologically derived fuel. Second, the additional generated electricity for the same unit of fuel can potentially offset emissions from traditional electricity sources. (e.g. coal-fired utility plants).

Therefore, the Wisconsin DNR has concluded that implementation of a separate categorical limit is necessary for the continued or increased use of combustion turbines firing biologically derived gaseous fuel. In addition, this action is likely to result in lower NO<sub>x</sub> emissions than originally allowed in the ozone attainment demonstration submitted to EPA in December, 2000. See 66 FR 56931, November 13, 2001. The new categorical NO<sub>x</sub> limit is expressed for both a simple cycle and combined cycle combustion turbine configuration.

The limit is placed in the section of NO<sub>x</sub> emission limits for combustion turbines under provision NR 428.04(2)(g)4 as follows.

NR 428.04(2)(g)4. 'Units fired by a biologically derived gaseous fuel.' No person may cause, allow or permit nitrogen oxides to be emitted from a biologically derived gaseous fuel fired combustion turbine in amounts greater than those specified in this subdivision.

a. 35 parts per million dry volume (ppmdv), corrected to 15% oxygen, on a 30-day rolling average basis for a simple cycle combustion turbine.

b. 35 parts per million dry volume (ppmdv), corrected to 15% oxygen, on a 30-day rolling average basis for a combined cycle combustion turbine.

With the creation of the new categorical emission limit, this revision amends the introductory language under provision NR 428.04(2)(g)(1), to acknowledge that combustion turbines only burning biologically derived gaseous fuel are not subject to the more stringent general emission limitations for burning any type of "gaseous fuels". The amended language references the

newly created subparagraph 4 and reads:

NR 428.04(2)(g)1. (intro.) 'Gaseous fuel-fired units.' Except as provided in subds. 3. and 4., no person may cause, allow or permit nitrogen oxides to be emitted from a gaseous fuel-fired combustion turbine in amounts greater than those specified in this subdivision.

Biologically derived gaseous fuel is defined under the newly created provision NR 428.02(1). The current provision of NR 428.02(1) is renumbered to NR 428.02(2). The newly created definition is as follows:

NR 428.02(1) "Biologically derived gaseous fuel" means a gaseous fuel resulting from biological processing of a carbon-based feedstock.

Units subject to the new categorical limit for combustion turbines burning biologically derived gaseous fuel must meet the same compliance, monitoring, and reporting requirements established for all other new sources. These requirements have already been determined appropriate for combustion turbines and approved by EPA in the Wisconsin SIP.

EPA's review of the revisions to Wisconsin's SIP regarding the control of NO<sub>x</sub> emissions is contained in a technical support document available from EPA Region 5, according to previously described procedures in "Section I.B." of this notice.

### III. Why Is the Request Approvable?

EPA has concluded that the modification to Wisconsin's NO<sub>x</sub> SIP to clarify those units eligible for demonstrating compliance through emission averaging does not change the population of sources currently eligible under the existing SIP. The approval of the new categorical NO<sub>x</sub> emission limit will have no negative impact on the Wisconsin one-hour ozone attainment demonstration SIP. The new categorical standard will not result in any increase in overall NO<sub>x</sub> emissions. To the contrary, this action is anticipated to reduce NO<sub>x</sub> emission levels on a source-by-source basis below those allowed by the December 2000 SIP. The comparable alternative for burning biologically derived fuel is a spark ignition reciprocating engine with a higher NO<sub>x</sub> emission rate than the new categorical standard for combustion turbines. In addition, there is a general environmental benefit due to the use of combustion turbines, in most cases, generating energy (electricity and steam) more efficiently than reciprocating engines or power boilers.

### IV. Statutory and Executive Order Review

#### *Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

#### *Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

#### *Regulatory Flexibility Act*

This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### *Unfunded Mandates Reform Act*

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

#### *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### *Executive Order 13132: Federalism*

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255,

August 10, 1999). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

*Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

*National Technology Transfer Advancement Act*

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

*Paperwork Reduction Act*

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

*Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the

appropriate circuit by January 10, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxide, Ozone.

Dated: October 8, 2004.

**Norman Niedergang,**

*Acting Regional Administrator, Region 5.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

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

**Subpart YY—Wisconsin**

■ 2. Section 52.2570 is amended by adding paragraph (c)(111) to read as follows:

**§ 52.2570 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(111) On May 25, 2004, Lloyd L. Eagan, Director, Wisconsin Department of Natural Resources, submitted a revision to its rule for control of nitrogen oxide emissions as a requested revision to the Wisconsin State Implementation Plan. The revision modifies language to clarify which sources are eligible to participate in the NO<sub>x</sub> emission averaging program to demonstrate compliance as part of the one-hour ozone attainment plan approved by EPA for the Milwaukee-Racine ozone nonattainment area (Kenosha, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Washington, and Waukesha counties). The rule revision also creates a separate categorical emission limit for new combustion turbines burning biologically derived gaseous fuels. The new NO<sub>x</sub> categorical limit for newly installed combustion turbines burning biologically derived fuel applies only to new sources located in Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties in southeastern Wisconsin.

(i) Incorporation by reference.

(A) NR 428.02(1) and (1m); NR 428.04(2)(g)(1); NR 428.04(2)(g)(4); and NR 428.06(2)(a) as published in the (Wisconsin) Register, December 2003, No. 576 and effective January 1, 2004.

[FR Doc. 04-24914 Filed 11-9-04; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-2004-0329; FRL-7684-2]

**Hexythiazox; Pesticide Tolerances for Emergency Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for combined residues of hexythiazox (trans-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide) and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety in or on field corn grain, stover, and fodder. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on field corn. This regulation establishes maximum permissible levels for residues of hexythiazox in these food commodities. The tolerances will expire and are revoked on December 31, 2007.

**DATES:** This regulation is effective November 10, 2004. Objections and requests for hearings must be received on or before January 10, 2005.

**ADDRESSES:** To submit a written objection or hearing request follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. EPA has established a docket for this action under docket identification (ID) number OPP-2004-0329. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St.,