

(ii) Determination of the potential for surface tectonic and nontectonic deformations. Sufficient geological, seismological, and geophysical data must be provided to clearly establish if there is a potential for surface deformation.

(iii) Determination of design bases for seismically induced floods and water waves. The size of seismically induced floods and water waves that could affect a site from either locally or distantly generated seismic activity must be determined.

(iv) Determination of siting factors for other design conditions. Siting factors for other design conditions that must be evaluated include soil and rock stability, liquefaction potential, and natural and artificial slope stability. Each applicant shall evaluate all siting factors and potential causes of failure, such as, the physical properties of the materials underlying the site, ground disruption, and the effects of vibratory ground motion that may affect the design and operation of the proposed ISFSI or MRS.

(3) Regardless of the results of the investigations anywhere in the continental U.S., the DE must have a value for the horizontal ground motion of no less than 0.10 g with the appropriate response spectrum.

■ 5. In § 72.212, paragraph (b)(2)(i)(B) is revised to read as follows:

§ 72.212 Conditions of general license issued under § 72.210.

* * * * *

- (b) * * *
- (2) * * *
- (i) * * *

(B) Cask storage pads and areas have been designed to adequately support the static and dynamic loads of the stored casks, considering potential amplification of earthquakes through soil-structure interaction, and soil liquefaction potential or other soil instability due to vibratory ground motion; and

* * * * *

Dated at Rockville, Maryland, this 10th day of September, 2003.

For the Nuclear Regulatory Commission.
Annette L. Vietti-Cook,
Secretary for the Commission.

[FR Doc. 03-23553 Filed 9-15-03; 8:45 am]

BILLING CODE 7590-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[W111-1a; FRL-7547-5]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency is approving a revision to the Wisconsin particulate matter (PM) State Implementation Plan (SIP) submitted by the Wisconsin Department of Natural Resources (WDNR) on October 7, 2002. The request is approvable because it satisfies the requirements of the Clean Air Act (Act). The rationale for the approval and other information are provided in this document.

DATES: This rule is effective on November 17, 2003, unless EPA receives adverse written comments by October 16, 2003. If EPA receives adverse comments, 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: You may inspect copies of the documents relevant to this action during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Christos Panos at (312) 353-8328 before visiting the Region 5 office.

Send written comments to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments may also be submitted electronically or through hand delivery/courier, please follow the detailed instructions described in Part (I)(B)(1)(i) through (iii) of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8328. panos.christos@epa.gov.

SUPPLEMENTARY INFORMATION: This Supplementary Information section is organized as follows:

I. General Information

- II. Review of State Implementation Plan Revision
 - 1. What did Wisconsin submit for approval into the SIP?
 - 2. Why did the State submit this SIP Revision?
 - 3. Why is EPA taking this action?
 - 4. What is the background for this action?
- III. What Action is EPA Taking?
- IV. Is this Action Final, or May I Submit Comments?
- V. Statutory and Executive Order Reviews.

I. General Information

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

1. The Regional Office has established an official public rulemaking file available for inspection at the Regional Office. EPA has established an official public rulemaking file for this action under "Region 5 Air Docket W111". 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 official public rulemaking file is the collection of materials that 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 contact 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 to 4:30 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, as EPA receives them and without change, 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.

B. 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 Air Docket WI111" 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.

1. Electronically. If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. 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.

i. E-mail. Comments may be sent by electronic mail (e-mail) to nash.carlton@epa.gov. Please include the text "Public comment on proposed rulemaking Region 5 Air Docket WI111" in the subject line. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

ii. Regulations.gov. Your use of Regulations.gov is an alternative method of submitting electronic comments to

EPA. Go directly to Regulations.gov at <http://www.regulations.gov>, then click on the button "TO SEARCH FOR REGULATIONS CLICK HERE", and select Environmental Protection Agency as the Agency name to search on. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. Disk or CD-ROM. You may submit comments on a disk or CD-ROM that you mail to the mailing address identified in section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. By Mail. Send your comments to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please include the text "Public comment on proposed rulemaking Regional Air Docket WI111" in the subject line on the first page of your comment.

3. By Hand Delivery or Courier. Deliver your comments to: Carlton Nash, Chief, Regulation Development Section, 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. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

C. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official

public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

II. Review of State Implementation Plan Revision

1. What Did Wisconsin Submit for Approval Into the SIP?

The October 7, 2002 revision submitted by WDNR requests that EPA approve certain amended provisions to chapter NR 415, Wisconsin Administrative Code (ch. NR 415), repeal sections NR 415.04(5), NR 415.05(5) and NR 415.06(5), and add section NR 415.035 into the Wisconsin PM SIP. Specifically, newly created section NR 415.035 contains a description of the geographic areas where the PM requirements would continue to be in effect. The areas described are identical to the current state total suspended particulates (TSP) nonattainment areas. The amendments to ch. NR 415 replace the term "nonattainment area" with a reference to the new section NR 415.035. The repealed sections of ch. NR 415 refer to PM emission limitation compliance schedules whose deadlines have already passed.

2. Why Did the State Submit This SIP Revision?

The revision to the rule changed the applicability of certain PM emission limiting requirements by substituting for the term "nonattainment area" a description of the geographic areas where the requirements would continue to be in effect. The revised rule will allow the state to retain the emission limits and RACT requirements which helped lower PM concentrations in those areas and ensure that the PM National Ambient Air Quality Standards (NAAQS) are maintained.

3. Why Is EPA Taking This Action?

EPA is taking this action because the State's request does not change any of the emission limitations currently in the PM SIP. The revision to the Wisconsin PM SIP does not approve any new construction or allow an increase in emissions, thereby providing for attainment and maintenance of the PM NAAQS and satisfying the applicable PM requirements of the Act.

4. What Is the Background for This Action?

The original PM NAAQS and increments were based on the TSP indicator. On July 1, 1987 (52 FR 24634), EPA replaced TSP as the indicator for the primary and secondary particulate NAAQS with a new indicator that includes only those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. EPA replaced the TSP increments with PM increments on June 3, 1994. Area designations for TSP were therefore no longer necessary and serve no useful purpose relative to Federal programs. EPA deleted all TSP area designations in the State of Wisconsin on September 13, 1995 (60 FR 47485).

Wisconsin, however, chose to retain the 24-hour TSP standard and TSP designations at the state level. This was done so that the emission limits and reasonably available control technology (RACT) requirements in the SIP remained in effect, even after EPA abolished the TSP standard and deleted all of Wisconsin's TSP designations. The current federally approved PM SIP, in ch. NR 415, includes rules which specifically apply emission limits and RACT requirements to any areas designated as TSP nonattainment.

III. What Action Is EPA Taking?

In this action, EPA is approving revisions to chapter NR 415, Wisconsin Administrative Code into the Wisconsin PM SIP. The state submitted this SIP revision on October 7, 2002. The changes to the rule will allow Wisconsin to redesignate certain State-designated TSP nonattainment areas to attainment while retaining the PM limits and control requirements which helped lower PM concentrations in those areas. As described above, this submittal provides for attainment and maintenance of the PM NAAQS and is therefore fully approvable.

IV. Is This Action Final, or May I Submit Comments?

EPA is publishing this action without prior proposal, because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision. Should EPA receive adverse written comments by October 16, 2003, we will withdraw this direct final and respond to any comments in a final action. If EPA does not receive adverse comments, this action will be effective without further notice. Any parties interested in commenting on this action

should do so at this time. If we do not receive comments, this action will be effective on November 17, 2003.

V. Statutory and Executive Order Reviews.

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 (Pub. L. 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 November 17, 2003. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 25, 2003.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ Title 40 of the Code of Federal Regulations, chapter I, part 52, 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.*

■ 2. Section 52.2570 is amended by adding paragraph (c)(109) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(109) On October 7, 2002, the Wisconsin Department of Natural Resources submitted a State Implementation Plan (SIP) revision for the control of emissions of particulate matter (PM) in the state of Wisconsin. This revision will allow certain state designated nonattainment areas for total suspended particulates (TSP) to be redesignated to attainment while retaining the emission limits and control requirements which helped lower PM concentrations in those areas. Specifically, EPA is approving into the PM SIP certain provisions to chapter NR 415, Wisconsin Administrative Code, and repealing sections NR 415.04(5), NR 415.05(5) and NR 415.06(5).

(i) *Incorporation by reference.* The following sections of the Wisconsin Administrative Code are incorporated by reference.

(A) NR 415.035 as created and published in the (Wisconsin) Register,

October 2001, No. 550, effective November 1, 2001.

(B) NR 415.04(2)(intro.), NR 415.04(3)(intro.), NR 415.04(3)(a), NR 415.04(4)(intro.), NR 415.04(4)(b), NR 415.05(3)(intro.), NR 415.06(3)(intro.), NR 415.06(4), and NR 415.075(3)(intro.) as amended and published in the (Wisconsin) Register, October 2001, No. 550, effective November 1, 2001.

[FR Doc. 03-23426 Filed 9-15-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NJ56-250w, FRL-7559-3]

Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for Specific Sources in the State of New Jersey; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of an adverse comment, EPA is withdrawing the direct final rule which approved revisions to the New Jersey State Implementation Plan for ozone. The direct final rule was published on August 11, 2003 (68 FR 47477), approving eight (8) source-specific reasonably available control technology (RACT) determinations for controlling oxides of nitrogen (NO_x). As stated in the direct final rule, if adverse comments were received by September 10, 2003, a timely withdrawal would be published in the **Federal Register**. EPA subsequently received an adverse comment. EPA will address the comments in a subsequent final action based upon the proposed action published on August 11, 2003 (68 FR 47532). EPA will not institute a second comment period on this action.

DATES: The direct final rule published at 68 FR 47477 is withdrawn on September 16, 2003.

FOR FURTHER INFORMATION CONTACT: Anthony (Ted) Gardella, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3892 or at *Gardella.Anthony@epa.gov*.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone,

Reporting and recordkeeping requirements.

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

Dated: September 4, 2003

Jane M. Kenny,

Regional Administrator, Region 2.

PART 52—[AMENDED]

■ Accordingly, the addition at 40 CFR 52.1570(c)(73) is withdrawn as of September 16, 2003.

[FR Doc. 03-23579 Filed 9-15-03; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC 105-200331a; FRL-7559-5]

Approval and Promulgation of Implementation Plans, North Carolina: Approval of Miscellaneous Revisions to Regulations Within the Forsyth County Local Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Forsyth County Environmental Affairs Department Local Implementation Plan (LIP), submitted to EPA through the North Carolina Department of Environment and Natural Resources. These revisions to the Forsyth County LIP submitted March 28, 2003, include: amending or adding regulations relating to indirect heat exchangers, cotton ginning operations, bulk gasoline terminals, gasoline truck tanks and vapor collection systems and activities exempt from permit requirements and other miscellaneous rules within, the Air Pollution Control Requirements subchapter. The purpose of these revisions is to make the revised regulations consistent with the requirements of the Clean Air Act.

DATES: This direct final rule is effective November 17, 2003 without further notice, unless EPA receives adverse comment by October 16, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be submitted by mail to: Rosymar De La Torre Colón, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street,