

section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 CFR 11040; February 26, 1979). The Coast Guard expects the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

#### Collection of Information

This temporary rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environment

The Coast Guard considered the environmental impact of this temporary rule and concluded that under section 2.B.2.e(34) of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

#### Regulation

In consideration of the foregoing, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. Section 165.T05-058 is added to read as follows:

#### § 165.T05-058 Safety Zone: Delaware Bay and Delaware River from the Delaware Breakwater to Westville, NJ.

(a) *Location:* The following area is a safety zone:

(1) All waters within an area which extends 500 yards on either side and 1000 yards ahead and astern of the T/V LINEGAS while the vessel is in the loaded condition and underway in the

area of the Delaware River and Delaware Bay bounded by the Coastal Eagle Point Refinery on the Delaware River, at Westville, NJ and the Delaware Breakwater.

(2) All waters within a 200 yd radius of the T/V LINEGAS while it is moored at the Coastal Eagle Point Refinery on the Delaware River, at Westville, NJ.

(b) *Effective Dates:* This rule is effective from 11:59 p.m. July 12, 1997, and terminates at 11:59 p.m. July 25, 1997, unless terminated sooner by the Captain of the Port, Philadelphia.

(c) *Definitions:*

(1) *Captain of the Port* or *COTP* means the Captain of the Port Philadelphia or any Coast Guard commissioned, warrant or petty officer authorized to act on his behalf.

(2) *Loaded Condition* means loaded with LHG that exceeds 2% of the vessel's cargo carrying capacity.

(d) No vessel may enter the safety zone unless its operator obtains permission of the Captain of the Port or his designated representative.

(e) As a condition of entry, the COTP may order that:

(1) All vessels operating within the safety zone must maintain a continuous radio guard on channels 13 and 16 VHF-FM while underway;

(2) Overtaking may take place only under conditions where overtaking is to be completed well before any bends in the channel. Before any overtaking, the pilots, masters, and operators of both vessels must clearly agree on all factors including speeds, time, and location of overtaking.

(3) Meeting situations on river bends shall be avoided to the maximum extent possible.

(4) The operator of any vessel in the safety zone shall proceed as directed by the Captain of the Port or by his designated representative.

(f) The senior boarding officer enforcing the safety zone may be contacted on VHF channels 13 & 16. The Captain of the Port of Philadelphia and the Command Duty Officer at the Marine Safety Office, Philadelphia, may be contacted at telephone number (215) 271-4940.

Dated: July 11, 1997.

**John E. Veentjer,**

*Captain, U.S. Coast Guard, Captain of the Port, Philadelphia, PA.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[W166-01-7242; FRL-5861-8]

#### Approval and Promulgation of Implementation Plans Wisconsin

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency is temporarily delaying the ozone attainment date for Manitowoc County from 1996 to 2007. This action suspends the automatic reclassification of Manitowoc County from moderate to serious nonattainment. Final approval of the new attainment date is dependent upon the results of an attainment demonstration for both upwind and downwind areas. Wisconsin is working toward completion of this attainment demonstration (which is due in mid-1997 for the Lake Michigan States) in conjunction with Illinois, Indiana, and Michigan, following the Phase I/Phase II Ozone Transport Assessment Group approach outlined in EPA's March 2, 1995 guidance memorandum from Mary Nichols entitled "Ozone Attainment Demonstrations".

In this rulemaking, EPA is responding to Wisconsin's submittal of an overwhelming transport petition for Manitowoc County. Photochemical grid modeling was used to demonstrate that transport from upwind areas makes it "practicably impossible" for the county to attain the ozone National Ambient Air Quality Standard (NAAQS) by its original attainment date. EPA's action does not preclude the State of Wisconsin from submitting a request for redesignation to attainment for the county, based on three current years of clean air quality monitoring data.

**DATES:** This final rule will become effective on August 22, 1997.

**ADDRESSES:** Copies of the State's submittal and other information are available for inspection during normal business hours at the following location:

Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Rick Tonielli, Air Programs Branch, Regulation Development Section (AR-18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-6068.

## SUPPLEMENTARY INFORMATION:

**I. Background**

On November 15, 1994, the Wisconsin Department of Natural Resources submitted a petition to the EPA requesting temporary suspension of the automatic reclassification to serious nonattainment and delay of the attainment date (from 1996 to 2007) for three ozone moderate nonattainment counties (Manitowoc, Sheboygan, and Kewaunee). On May 15, 1996, the WDNR submitted a request for redesignation to attainment for the three moderate nonattainment areas based on 3 years of clean air quality data. On August 26, 1996, the counties of Sheboygan and Kewaunee were redesignated to attainment (61 FR 43668-43675). Manitowoc County was not redesignated to attainment due to violations of the ozone national ambient air quality standard (NAAQS) during the summer of 1996. As a result, the overwhelming transport request was applied solely to Manitowoc County.

On May 5, 1997, EPA published a rulemaking proposing approval of the overwhelming transport petition for Manitowoc County. A discussion of EPA's overwhelming transport policy and the modeling submitted by Wisconsin to demonstrate overwhelming transport is included in that proposed rulemaking (62 FR 24380-24383). During the 30 day public comment period for this final rule, EPA received adverse comments from a private party, who took the position that EPA should redesignate Manitowoc County to attainment.

**II. Public Comment/EPA Response***Private Citizen Comment 1*

Manitowoc County does not generate the air quality recorded at the Woodland Dunes ozone monitoring site.

*EPA Response*

EPA's overwhelming transport policy applies to areas which are violating the ozone NAAQS due to emissions occurring upwind. Wisconsin has demonstrated through photochemical grid modeling that overwhelming transport of ozone and its precursors into Manitowoc County is occurring; further, Wisconsin has shown that eliminating emissions in Manitowoc County would not bring the area into attainment. For this reason, EPA is taking action in this notice to grant a temporary delay of the attainment date for Manitowoc County from the end of 1996 to the end of the year 2007. Because the attainment date is no longer the end of 1996, EPA has no basis to reclassify Manitowoc to a serious

nonattainment area for failure to attain by the end of 1996. This will mean that the automatic regulatory requirements that would otherwise be applied to Manitowoc County were it reclassified to serious will not be implemented.

*Private Citizen Comment 2*

If the Woodland Dunes monitor was moved inland, the area would meet the requirements for attainment.

*EPA Response*

The ozone monitor at the Woodland Dunes site is part of the Photochemical Assessment Monitoring Station (PAMS) network. Its location was chosen to establish the extreme downwind concentrations of ozone and its precursors being transported from the Milwaukee metropolitan area. The high concentrations measured at this site are representative of the ozone being transported into this downwind area. As mentioned previously, Wisconsin has verified through modeling that overwhelming transport is occurring.

Elevated concentrations are seen on high ozone days at the Woodland Dunes monitor; as the commenter points out, these concentrations are typically higher than those seen at the Manitowoc County inland monitor at the Collins Fire Tower. Ozone concentration measurements are needed from monitors along the lakeshore as well as inland to generate the information needed by EPA and Wisconsin to design strategies to reduce ozone and protect public health.

**III. Final Action**

The State submittal demonstrated through modeling that emissions from the Manitowoc County moderate nonattainment area do not contribute to the predicted concentrations in that area. It further demonstrated that the high modeled concentrations are due to transport from upwind areas. Therefore, Manitowoc County could not demonstrate modeled attainment of the Ozone National Ambient Air Quality Standards by the required attainment date, November 15, 1996, due to overwhelming transport from upwind areas that have a later attainment date of November 15, 2007. Because the upwind areas (e.g., Chicago and Milwaukee) do not have approved modeling analyses demonstrating that the Manitowoc County moderate nonattainment area could show attainment by a specific date, EPA approves Wisconsin's request to temporarily allow the Manitowoc County moderate nonattainment area to use the upwind area's attainment date of November 15, 2007. This action does

not preclude the State from submitting a request for redesignation to attainment for Manitowoc County based on the 3 most recent years of clean air quality monitoring data. Approval of a permanent delay of the attainment date will be dependent on the results of the attainment demonstration for both the upwind and downwind areas, along with the additional provisions detailed in part II(B) of the attachment to the September 1, 1994, guidance memorandum.

**IV. General Provisions**

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

*Regulatory Process*

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant economic impact on any small entities.

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, 1533, and 1535, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State,

local, or tribal governments in the aggregate.

Through submission of the state implementation plan or plan revisions approved in this section, the State has elected to adopt the program provided for under section 110 of the Clean Air Act. The rules and commitments being approved under this section may bind State, local, and tribal governments to perform certain actions and also may ultimately lead to the private sector being required to perform certain duties. To the extent that the rules and commitments being approved by this action will impose or lead to the imposition of any mandate upon the State, local, or tribal governments either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. The EPA has also determined that this action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector. Approval of Wisconsin's emissions inventories does not impose any new requirements or have a significant economic impact on small entities.

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 September 22, 1997. 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)).

**Submission to Congress and the General Accounting Office**

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

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

Environmental protection, Air pollution control, Ozone, Volatile organic compounds, Nitrogen oxides.

**Authority:** 42 U.S.C. 7401-7671(q).

Dated: July 9, 1997.

**David A. Ullrich,**  
*Acting Regional Administrator.*

Parts 52 and 81 of chapter I, title 40 of the Code of Federal Regulations are amended as follows:

**Part 52—[AMENDED]**

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

**Authority:** 42 U.S.C. 7401-7671q.

**Subpart YY—Wisconsin**

2. Section 52.2585 is amended by adding paragraph (l) to read as follows:

**§ 52.2585 Control strategy: Ozone.**

\* \* \* \* \*

(l) Wisconsin's November 15, 1994 request for a temporary delay of the ozone attainment date for Manitowoc County from 1996 to 2007 and suspension of the automatic reclassification of Manitowoc County to serious nonattainment for ozone is approved, based on Wisconsin's demonstration through photochemical grid modeling that transport from upwind areas makes it "practically impossible" for the County to attain the ozone National Ambient Air Quality Standard by its original attainment date.

**PART 81—[AMENDED]**

1. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401-7671q.

2. In Section 81.350, the "Wisconsin—Ozone" table is amended by revising the entry for Manitowoc County to read as follows:

**§ 81.350 Wisconsin**

\* \* \* \* \*

WISCONSIN—OZONE

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
* * * Manitowoc County Area .....	* 1/6/92	* Nonattainment .....	* Aug. 22, 1997 .....	* Moderate. <sup>2</sup>
* * *	*	*	*	*

<sup>1</sup> This date is November 15, 1990, unless otherwise noted.  
<sup>2</sup> Attainment date temporarily delayed until November 15, 2007.

\* \* \* \* \*  
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**FEDERAL EMERGENCY MANAGEMENT AGENCY**

**44 CFR Part 64**

[Docket No. FEMA-7668]

**Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, FEMA.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain