

8 p.m. to 6 a.m., the bridge need not open for the passage of vessels.

The Coast Guard has also removed from the regulations the provision for opening the bridge as soon as possible for the passage of state and local vessels used for public safety. This provision is now included under the general operating regulations for bridges at § 117.31.

#### Discussion of Comments and Changes

The Coast Guard received no letters commenting on the notice of proposed rulemaking and no changes have been made to the final rule.

#### Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed 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 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that this final rule is simply removing unnecessary language that allows the bridge not to open during vehicular traffic rush hours. Vehicles no longer pass over the Northern Avenue Bridge to cross Fort Point Channel. This change to the regulations will economically benefit navigational interests that use this waterway by no longer delaying their transits. The Coast Guard believes that the added cost to crew the bridge is not significant because the bridge owner must crew the bridge during the daytime hours 6 a.m. to 8 p.m. anyway and the additional cost to crew the bridge during the two rush hour periods is offset by the benefit to navigation using this waterway.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000. Therefore, for reasons discussed in the Regulatory Evaluation section above, the

Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this final rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environment

The Coast Guard considered the environmental impact of this final rule and concluded that, under Section 2.B.2., Figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this final rule.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.599 is revised to read as follows:

#### § 117.599 Fort Point Channel.

The Northern Avenue Bridge, mile 0.1, shall open on signal from 6 a.m. to 8 p.m., daily. From 8 p.m. to 6 a.m. the bridge need not open for the passage of vessels.

Dated: May 13, 1999.

**R.M. Larrabee,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 99-13435 Filed 5-26-99; 8:45 am]

BILLING CODE 4910-15-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[W174-01-7303; FRL-6336-8]

#### Approval and Promulgation of Implementation Plans; Wisconsin

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of final rulemaking.

**SUMMARY:** The purpose of this action is a final rulemaking on the State of Wisconsin's Prevention of Significant Deterioration (PSD) rules, Natural Resources (NR) 405.01 through NR 405.17, as a revision to the Wisconsin State Implementation Plan (SIP). The State developed these rules as Wisconsin's plan to prevent significant deterioration of air quality in areas designated as unclassifiable or attainment of the National Ambient Air Quality Standards (NAAQS), and to satisfy the requirements of part C of the Clean Air Act (Act).

The Environmental Protection Agency (EPA) is approving these rules because they meet EPA's regulations governing State PSD programs (40 CFR 51.166). In addition to the PSD rules, Wisconsin has submitted rules as a revision to the SIP to establish breathable particulates (PM-10) as a basis for the determination of particle concentrations for permitting purposes under the PSD program and, therefore, tie the new source permit evaluations directly to human health standards. Finally, Wisconsin submitted revisions to its existing SIP that are intended to correct errors in content and style, to improve consistency, and to clarify existing policy and procedures.

**DATES:** This rule will be effective June 28, 1999.

**ADDRESSES:** Copies of the State's submittal and other supporting information used in developing the revision are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR-18J, Chicago, Illinois 60604. Please contact Constantine Blathras at (312) 886-0671 to arrange a time if inspection of these materials is desired.

Copies of the submittal are also located at the Bureau of Air Management, Wisconsin Department of Natural Resources, 101 South Webster Street, P.O. Box 7921, Madison, Wisconsin 53707.

**FOR FURTHER INFORMATION CONTACT:** Constantine Blathras, AR-18J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0671.

## SUPPLEMENTARY INFORMATION:

**I. Background and Purpose**

The 1977 Amendments to the Act added part C to Title I, which required implementation of a PSD program. On June 19, 1978, EPA promulgated the Federal PSD program, 40 CFR 52.21, which contains the procedures and requirements which EPA itself follows when it carries out the mandates of part C. EPA approved the section 52.21 requirements into those State SIPs where a State did not have an approvable plan in place. Section 52.21 provides that its requirements and authorities, or part thereof, can be delegated to State and local air programs if EPA determines that they have the ability and authority to carry out its mandates.

On June 19, 1978, (43 FR 26410), EPA approved the Federal PSD program, 40 CFR 52.21 (b) through (w), into the Wisconsin SIP at 40 CFR 52.2581 because Wisconsin had not submitted an approvable PSD program. On August 19, 1980, EPA gave Wisconsin partial delegation to run the Federal PSD program and on November 13, 1987, gave Wisconsin full delegation of the program, except for sources in Indian country. EPA did not explicitly delegate to the State the program for any area of Indian country.

Wisconsin's PSD and PM-10 rules which are finalized do not apply in Indian country as defined at 18 U.S.C. 1151. Section 301(d) of the Act authorizes the Administrator to determine which provisions are appropriate for Tribes to administer and to promulgate regulations as to how Tribes can assume these authorities. EPA proposed such regulations on August 25, 1994 (59 FR 43956). The Tribal authority rule was promulgated on February 12, 1998 (63 FR 7254). The preamble to this rule clarifies that, under the authority of several Act provisions including section 301(d)(4), EPA will continue to implement Act programs throughout Indian country until and unless such time as a Tribe has met the requirements to be treated in the same manner as a State for purposes of developing and implementing one or more of its own air quality programs under the Act.

On March 16, 1987, the Wisconsin Department of Natural Resources (WDNR) submitted to the Regional Administrator Chapter NR 405 of the Wisconsin Administrative Code for approval and inclusion as part of its SIP to meet the requirements of part C of the Act and as a replacement for EPA's delegated program. Rule NR 405 deals exclusively with PSD permitting

requirements. On January 4, 1994, EPA proposed to disapprove Wisconsin's PSD SIP revision, NR 405.01 through NR 405.17. The deficiencies in the proposal were addressed by the WDNR in comments on March 8, 1994, and, to avoid having the SIP revision formally disapproved, the WDNR withdrew the original submittal.

On November 6, 1996, the WDNR submitted a request for approval of its revised PSD program. More specifically, the submittal addresses the deficiencies listed in the January 4, 1994 **Federal Register** document in which EPA had proposed to disapprove the State of Wisconsin's PSD rules as a revision to the Wisconsin SIP. On December 18, 1996, EPA sent a letter to the WDNR deeming the revised submittal complete and initiating the processing of the request.

The EPA reviewed the revisions made to NR 405 and determined that, combined with the remainder of NR 405, which was not changed, they meet the Act's part C requirements.

On December 10, 1997, EPA proposed approval of Wisconsin's PSD rules as a revision to the Wisconsin SIP. (62 FR 65046). EPA received no comments on the proposal.

Chapter NR 405 presumes to apply PSD regulation within the total area of the State of Wisconsin. As stated above, EPA is approving this rule for all portions of the State of Wisconsin except for those sources in Indian country. EPA will continue to issue PSD permits, as needed, to all sources located in Indian country. EPA also will continue to implement throughout the entire State of Wisconsin the authorities vested in the Administrator by section 164(e) of the Act and 40 CFR 52.21(t) regarding resolution of disputes between States and Indian Tribes.

**II. Final Action**

The EPA is approving as a revision to the Wisconsin SIP rules submitted on November 6, 1996. EPA has determined that these rules meet the requirements of part C of the Act.

Copies of the State's submittal and other information that forms the basis for this approval are contained in a rulemaking file maintained at the EPA Region 5 office. The file is a record of all information submitted to, or otherwise considered by, EPA in the development of this final approval. The file is available for public inspection at the Chicago Region 5 office listed under the **ADDRESSES** section of this document.

**III. Administrative Review****A. Executive Order 12866**

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

**B. Executive Order 12875: Enhancing Intergovernmental Partnerships**

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elective officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

**C. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments**

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on these communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the OMB in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal

governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." This rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

#### D. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

#### E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because plan approvals under section 110 do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of a State action. The Act forbids EPA to base its actions on such grounds. *Union Electric Co., v. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### G. Submission to Congress and the Comptroller General

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. The 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 the 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 rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 26, 1999. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, New source review, Nitrogen dioxide, Particulate matter, Reporting, and recordkeeping requirements, Sulfur dioxide, and Volatile organic compounds.

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

Dated: April 21, 1999.

**William E. Muno,**

*Acting Regional Administrator.*

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. 7401-7671q.

#### Subpart YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(98) to read as follows:

#### § 52.2570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(98) On November 6, 1996, the State of Wisconsin submitted rules pertaining to requirements under the Prevention of Significant Deterioration program. Wisconsin also submitted rule packages as revisions to the state implementation plans for particulate matter and revisions to the state implementation plans for clarification changes.

(i) Incorporated by reference. The following sections of the Wisconsin Administrative Code (WAC) are incorporated by reference. Both rule packages, AM-27-94 and AM-9-95, were published in the (Wisconsin) Register in April 1995, No. 472, and became effective May 1, 1995. AM-27-94 modifies Chapter NR, Sections 400.02(39m), 404.05, 405.02, 405.07, 405.08, 405.10, 405.14, and 484.04 of the WAC. AM-9-95 modifies Chapter NR, Sections 30.03, 30.04, 400 Note, 400.02, 400.03, 401.04, 404.06, 405.01, 405.02, 405.04, 405.05, 405.07, 405.08, 405.10, 406, 407, 408, 409, 411, 415, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 429, 436, 438, 439, 445m, 447,

448, 449, 484, 485, 488, 493, and 499 of the WAC.

3. § 52.2581 paragraphs (a), (b), and (c) are deleted and reserved, and paragraphs (d) and (e) are added as follows:

**§ 52.2581 Significant deterioration of air quality.**

(a)-(c) [Reserved]

(d) The requirements of sections 160 through 165 of the Clean Air Act are met, except for sources seeking permits to locate in Indian country within the State of Wisconsin; and sources with permits issued by EPA prior to the effective date of the state's rules.

(e) Regulations for the prevention of the significant deterioration of air quality. The provisions of § 52.21(b) through (w) are hereby incorporated and made a part of the applicable state plan for the State of Wisconsin for sources wishing to locate in Indian country; and sources constructed under permits issued by EPA.

[FR Doc. 99-13386 Filed 5-26-99; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[KY-9916; FRL-6343-3]

**Approval and Promulgation of Air Quality Implementation Plans; Kentucky; Revised Format for Materials Being Incorporated by Reference**

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

**ACTION:** Final rule; notice of administrative change.

**SUMMARY:** EPA is revising the format of 40 CFR part 52 for materials submitted by the Commonwealth of Kentucky that are incorporated by reference (IBR) into the State Implementation Plan (SIP). The regulations affected by this format change have all been previously submitted by the State agency and approved by EPA.

This format revision will affect the "Identification of Plan" sections of 40 CFR part 52, as well as the format of the SIP materials that will be available for public inspection at the Office of the Federal Register (OFR), the Air and Radiation Docket and Information Center located in Waterside Mall, Washington, D.C., and the Regional Office. The sections of 40 CFR part 52 pertaining to provisions promulgated by EPA or State-submitted materials not

subject to IBR review remain unchanged.

**EFFECTIVE DATE:** This action is effective May 27, 1999.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations:

Environmental Protection Agency,  
Region 4, 61 Forsyth Street, SW,  
Atlanta, GA 30303;  
Office of Air and Radiation, Docket and  
Information Center (Air Docket), EPA,  
401 M Street, SW, Room M1500,  
Washington, DC 20460;

and

Office of the Federal Register, 800 North  
Capitol Street, NW, Suite 700,  
Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:**

Richard Schutt, Regional SIP  
Coordinator at (404) 562-9033, or Karla  
McCorkle at (404) 562-9043. Address all  
written comments to the Region 4  
address listed above.

**SUPPLEMENTARY INFORMATION:** The  
supplementary information is organized  
in the following order:

What is a SIP?  
How EPA enforces SIPs.  
How the State and EPA update the SIP.  
How EPA compiles the SIPs.  
How EPA organizes the SIP Compilation.  
Where you can find a copy of the SIP  
Compilation.

The format of the new Identification of  
Plan Section.

When a SIP revision become federally  
enforceable.

The historical record of SIP revision  
approvals.

What EPA is doing in this action.  
How this document complies with the  
Federal Administrative Requirements for  
rulemaking.

**What Is a SIP?**

Each state has a SIP containing the  
control measures and strategies used to  
attain and maintain the national  
ambient air quality standards (NAAQS).  
The SIP is extensive, containing such  
elements as air pollution control  
regulations, emission inventories,  
monitoring network, attainment  
demonstrations, and enforcement  
mechanisms.

**How EPA Enforces SIPs**

Each state must formally adopt the  
control measures and strategies in the  
SIP after the public has had an  
opportunity to comment on them and  
then submit the SIP to EPA.

Once these control measures and  
strategies are approved by EPA, after  
notice and comment, they are  
incorporated into the Federally  
approved SIP and are identified in part

52 (Approval and Promulgation of  
Implementation Plans), Title 40 of the  
Code of Federal Regulations (40 CFR  
part 52). The full text of the state  
regulation approved by EPA is not  
reproduced in its entirety in 40 CFR part  
52, but is "incorporated by reference."  
This means that EPA has approved a  
given state regulation with a specific  
effective date. The public is referred to  
the location of the full text version  
should they want to know which  
measures are contained in a given SIP.  
The information provided allows EPA  
and the public to monitor the extent to  
which a state implements the SIP to  
attain and maintain the NAAQS and to  
take enforcement action if necessary.

**How the State and EPA Update the SIP**

The SIP is a living document which  
the State can revise as necessary to  
address the unique air pollution  
problems in the State. Therefore, EPA  
from time to time must take action on  
SIP revisions containing new and/or  
revised regulations as being part of the  
SIP. On May 22, 1997 (62 FR 27968),  
EPA revised the procedures for  
incorporating by reference federally-  
approved SIPs, as a result of  
consultations between EPA and OFR.

EPA began the process of developing:

1. A revised SIP document for each  
state that would be incorporated by  
reference under the provisions of 1 CFR  
part 51;

2. A revised mechanism for  
announcing EPA approval of revisions  
to an applicable SIP and updating both  
the IBR document and the CFR; and

3. A revised format of the  
"Identification of Plan" sections for  
each applicable subpart to reflect these  
revised IBR procedures.

The description of the revised SIP  
document, IBR procedures and  
"Identification of Plan" format are  
discussed in further detail in the May  
22, 1997, **Federal Register** document.

**How EPA Compiles the SIPs**

The federally-approved regulations  
and source specific permits (entirely or  
portions of), submitted by each state  
agency have been compiled by EPA into  
a "SIP Compilation." The SIP  
Compilation contains the updated  
regulations and source specific permits  
approved by EPA through previous rule  
making actions in the **Federal Register**.  
The compilations are contained in 3-  
ring binders and will be updated,  
primarily on an annual basis.

**How EPA Organizes the SIP  
Compilation**

Each SIP Compilation contains two  
parts. Part 1 contains the regulations