

authority under 23 U.S.C. 109(d), 315, and 402(a) to promulgate uniform guidelines to promote the safe and efficient use of the highway. The overriding safety benefits of the uniformity prescribed by the MUTCD are shared by all of the State and local governments, and changes made to this rule are directed at enhancing safety. To the extent that these amendments override any existing State requirements regarding traffic control devices, they do so in the interest of national uniformity.

#### **Executive Order 12372 (Intergovernmental Review)**

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

#### **Paperwork Reduction Act**

This action does not contain a collection of information requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

#### **National Environmental Policy Act**

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that this action will not have any effect on the quality of the environment.

#### **Executive Order 13175 (Tribal Consultation)**

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and concluded that this interim final rule will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal government; and will not preempt tribal law. The requirements set forth in this interim final rule do not directly affect one or more Indian tribes. Therefore, a tribal summary impact statement is not required.

#### **Executive Order 12988 (Civil Justice Reform)**

This interim final rule meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### **Executive Order 13045 (Protection of Children)**

Under Executive Order 13045, Protection of Children from Environmental Health and Safety Risks,

this interim final rule is not economically significant and does not involve an environmental risk to health and safety that may disproportionately affect children.

#### **Executive Order 12630 (Taking of Private Property)**

This interim final rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### **Executive Order 13211 (Energy Effects)**

This interim final rule has been analyzed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The FHWA has determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and this interim final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### **Regulation Identification Number**

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

#### **List of Subjects in 23 CFR Part 655**

Design standards, Grant programs—transportation, highways and roads, Incorporation by reference, Signs and symbols, Traffic regulations.

Issued on: May 3, 2004.

**Mary E. Peters,**  
*Federal Highway Administrator.*

■ In consideration of the foregoing, the FHWA is amending title 23, Code of Federal Regulations, part 655, subpart F as follows:

#### **PART 655—TRAFFIC OPERATIONS**

■ 1. The authority citation for part 655 continues to read as follows:

**Authority:** 23 U.S.C. 101(a), 104, 109(d), 114(a), 217, 315, and 402(a); 23 CFR 1.32; and 49 CFR 1.48(b).

#### **Subpart F—Traffic Control Devices on Federal-Aid and Other Streets and Highways—[Amended]**

■ 2. Revise § 655.601(a) to read as follows:

#### **§ 655.601 Purpose.**

\* \* \* \* \*

(a) Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), 2003 Edition, including Revision No. 1, FHWA, dated July 21, 2004. This publication is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 and is on file at the National Archives and Record Administration (NARA). For information on the availability of this material at NARA call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). It is available for inspection and copying at the Federal Highway Administration, 400 Seventh Street, SW., Room 3408, Washington, DC 20590, as provided in 49 CFR part 7. The text is also available from the FHWA Office of Transportation Operations' Web site at: <http://mutcd.fhwa.dot.gov>.

\* \* \* \* \*

[FR Doc. 04-10491 Filed 5-7-04; 8:45 am]

BILLING CODE 4910-22-P

#### **DEPARTMENT OF THE TREASURY**

#### **Alcohol and Tobacco Tax and Trade Bureau**

#### **27 CFR Part 9**

[T.D. TTB-11; Re: Notice No. 11]

RIN 1513-AC81

#### **Columbia Gorge Viticultural Area (2002R-03P)**

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** This Treasury decision establishes the Columbia Gorge viticultural area in Hood River and Wasco Counties, Oregon, and Skamania and Klickitat Counties, Washington, approximately 60 miles east of Portland, Oregon. We designate viticultural areas to allow bottlers to better describe the origin of wines and allow consumers to better identify the wines they may purchase.

**DATES:** *Effective Date:* July 9, 2004.

**FOR FURTHER INFORMATION CONTACT:** N.A. Sutton, Program Manager, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, 6660 Delmonico Drive, #D422, Colorado Springs, CO 80919; telephone (415) 271-1254.

**SUPPLEMENTARY INFORMATION:**

## TTB Background

### *Homeland Security Act Impact on Rulemaking*

Effective January 24, 2003, the Homeland Security Act of 2002 divided the Bureau of Alcohol, Tobacco and Firearms into the Alcohol and Tobacco Tax and Trade Bureau (TTB) in the Department of the Treasury and the Bureau of Alcohol, Tobacco, Firearms and Explosives in the Department of Justice. TTB regulates wine labeling, including viticultural area designations.

### Background on Viticultural Areas

#### *Tax and Trade Bureau Authority*

The Federal Alcohol Administration Act (FAA Act) at 27 U.S.C. 205(e) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity, while prohibiting the use of misleading information on such labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out the Act's provisions, and the Secretary has delegated authority to administer those regulatory provisions to TTB.

Regulations in 27 CFR part 4, Labeling and Advertising of Wine, allow the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Title 27 CFR part 9, American Viticultural Areas, contains the list of approved viticultural areas.

#### *Definition*

Title 27 CFR 4.25(e)(1) defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9. These designations allow consumers and vintners to attribute a given quality, reputation, or other characteristic of wine made from grapes grown in an area to its geographic origin. We believe that the establishment of viticultural areas allows wineries to describe more accurately the origin of their wines to consumers and helps consumers identify the wines they purchase. Establishment of a viticultural area is neither an approval nor endorsement by TTB of the wine produced in that area.

#### *Impact on Current Wine Labels*

Viticultural area names have geographic significance. Our 27 CFR part 4 label regulations prohibit the use of a brand name with geographic significance on a wine unless the wine meets the appellation of origin requirements for the named area. Our

regulations also prohibit any label references that suggest an origin other than the true place of origin of the wine.

With the establishment of this viticultural area, bottlers who use "Columbia Gorge" as a brand name, including a trademark, or in other label references to indicate the origin of the wine must ensure that their product is eligible to use the name of the viticultural area as an appellation of origin and that the use of the name is otherwise not misleading as to the origin of the wine. For a wine to be eligible to use a name listed in part of our regulations as an appellation of origin, at least 85 percent of the grapes used to make the wine must have been grown within the viticultural area. If the wine is not eligible to use the viticultural area name and such name appears in the brand name of the wine, bottlers must change the brand name of that wine and obtain approval of a new label.

Different rules apply if a wine in this category has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i) for details.

#### *Requirements*

Section 4.25(e)(2) outlines the procedure for proposing an American viticultural area. Anyone interested may petition TTB to establish a grape-growing region as a viticultural area. The petition must include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as specified in the petition;
- Evidence that growing conditions, such as climate, soils, elevation, physical features, etc., distinguish the proposed area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features shown on United States Geological Survey (USGS) maps or USGS-approved maps; and
- Copies of the appropriate map(s) with the boundary prominently marked.

#### **Columbia Gorge Petition**

Mark Wharry, for the Columbia River Gorge Wine Growers Association, petitioned ATF to establish "Columbia Gorge" viticultural area in Hood River and Wasco Counties, Oregon, and Skamania and Klickitat Counties, Washington. The 280 square mile Columbia Gorge viticultural area is located about 60 miles east of Portland,

Oregon, straddles the Columbia River for 15 miles, and extends into south-central Washington and north-central Oregon. The area surrounds Hood River, Oregon, and White Salmon, Washington, and is generally bordered by B Z Corner, Washington, on the north; Lyle, Washington, on the east; Parkdale, Oregon, on the south; and Vinzenz Lausmann State Park, Oregon, on the west. The area is just west of the established Columbia Valley viticultural area and shares a part of its border with that area.

#### **Supporting Evidence for Establishment of Columbia Gorge**

##### *Evidence That the Name of the Area is Locally or Nationally Known*

Local residents know this narrow, winding valley, with its steeply rising bluffs as "the Gorge," "Columbia Gorge," and "Columbia River Gorge," and debate whether the name should be "Columbia Gorge" or "Columbia River Gorge," since they use both terms. The term "Columbia River Gorge" often appears as a more formal title, such as the Columbia River Gorge National Scenic Area and the Columbia River Gorge National Fish Hatcheries.

The "Columbia Gorge" name is the most common usage, as stated in the petition, and connotes an area smaller in size than the Federally designated Columbia River Gorge National Scenic Area. Examples of this usage include the Columbia Gorge Interpretive Center of the Skamania County Historical Society, the Columbia Gorge Discovery Center of the Wasco County Historical Museum, and various businesses and tourist attractions. Promotional groups such as the Skamania County Chamber of Commerce, Cascade Locks, use maps titled "Experience the Columbia Gorge" and "Heart of the Columbia Gorge."

##### *Historical and Current Evidence That Supports the Boundary*

Growers have raised grapes in the Columbia Gorge for over a century. In the 1880s, the Jewitt family, founders of the town of White Salmon, Washington, built terraces on a wide south-facing slope on the bluff above Bingen, Washington. They planted American vines that they had brought with them from Illinois. Also, the pioneering Balfour and Meress families brought grape cuttings to the Columbia Gorge. John Balfour, the youngest son of English Lord Balfour, planted grape vines in the early 1900s near the current location of Lyle, Washington. Leonis and Eliza Meress brought grape cuttings to the area from their native Adele Nord, a village in one of France's

coldest regions. Some of the vinifera vines they planted are still alive and have withstood temperatures well below zero.

Interest in grape growing in the Columbia Gorge was renewed in the early 1960s when experimental plots were planted in White Salmon, Washington. Later, commercial plots were planted under the direction of Washington State University. Today the Columbia River Gorge Wine Growers Association is comprised of 24 growers and 4 wineries. Currently, 284 acres are planted to wine grapes in the Columbia Gorge viticultural area, with more being planted each year.

#### *Evidence of Distinctive Growing Conditions*

The Columbia Gorge viticultural area's boundary is based on a combination of topographic, soil, and climatic factors that contrast with the nearby Columbia Valley and Willamette Valley viticultural areas. Much of the boundary line is the 2,000-foot elevation line, which encloses lower elevations and flatter agricultural areas with loamy soils. Above the 2,000-foot elevation boundary line the terrain becomes steeper and has gravelly soils more suitable for timber.

#### Topography

The Columbia River, twisting and turning on a westbound course, carved the Columbia Gorge, with its sides of steep cliffs, into the landscape. These sides range from sheer rock faces, comprised of volcanic outcroppings of igneous and metamorphic rock, to gentle stair-step benchlands formed by prehistoric lava flows. These benchlands have deep soil and good sun exposure, making them desirable for vineyards.

The Gorge funnels the Pacific's moist marine air to its west and the drier inland air to its east, back and forth. The Columbia Gorge viticultural area benefits from these prevailing winds, which moderate temperatures that otherwise might be warmer in the summer and cooler in the winter.

#### Soils

Soil types within the boundaries of the Columbia Gorge viticultural area are silty loams, as opposed to the more gravelly soils found outside the area. As the valleys on both the Washington and Oregon sides of the area slope up to the surrounding hills, the terrain becomes much steeper, and the soil types change noticeably.

Permeability of the silty loams found within the Columbia Gorge viticultural area is slow to moderate, and the

available water capacity is high. Effective rooting depth is 60 inches or more. Soils include Chemawa, Underwood Loam, McGowen, Wyest Silt Loam, Van Horn, Parkdale Loam, and Oak Grove Loam series.

By contrast, the soils immediately surrounding the Columbia Gorge viticultural area, both above the 2,000-foot elevation line and eastward to the Columbia Valley, are generally gravelly with higher permeability. These soils typically support sloped timber areas at more than 2,000 feet above sea level. Examples of soils outside the area are the Steeper McElroy, Undusk Gravelly Loam, Husum Gravelly Loam, Rock Outcrop, Bins-Bindle, Yallani, and Hesslan-Skyline series.

#### Rainfall

Yearly rainfall totals determine the eastern and western borders of the Columbia Gorge viticultural area. To the west, the land has more rainfall, cloud cover, and vegetative growth, which results in benchlands unsuitable for viticulture. To the east, the terrain is more arid.

Annual rainfall within the Columbia Gorge viticultural area ranges from 30 inches on the west side of the Hood River, Oregon, to 18 inches near its eastern boundary at Lyle, Washington. By comparison, west of the Columbia Gorge viticultural area boundary the Bonneville Dam averages 77.54 inches and Skamania, Washington, averages 85.49 inches of annual rainfall. To the east of the boundary line, The Dalles, Oregon, averages 14.52 inches and Yakima, Washington, averages 8.21 inches of rainfall annually.

#### Temperature

The average growing temperatures within the Columbia Gorge viticultural area range from 62 degrees (Appleton and Wind River, Washington) to 65 degrees (Hood River, Oregon), as compared to 61 degrees to the west in Skamania and 71.6 degrees to the east in The Dalles. In general, grapes grown in this viticultural area are early varieties, such as Pinot Noir and Gewurztraminer, which require fewer high temperature days. By contrast, the Columbia Valley viticultural area is able to grow much later varieties, e.g., Merlot and Cabernet Sauvignon, due to significantly higher degree growing days.

#### Rulemaking Proceedings

##### *Notice of Proposed Rulemaking*

##### Comments

TTB published a notice of proposed rulemaking regarding the establishment

of the Columbia Gorge viticultural area in the June 27, 2003, **Federal Register** as Notice No. 11 (68 FR 38251). In that notice, TTB requested comments by August 26, 2003, from anyone interested. We received 16 favorable comments and no unfavorable comments. Washington wine industry members provide the majority of comments. Members of the public, a home winemaker, and a restaurant owner also commented favorably on the establishment of the Columbia Gorge viticultural area.

#### Regulatory Analyses and Notices

##### *Regulatory Flexibility Act*

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. It imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of the Columbia Gorge viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

##### *Executive Order 12866*

This rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

#### Drafting Information

The principal author of this document is N.A. Sutton, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau.

#### List of Subjects in 27 CFR Part 9

Wine.

#### Authority and Issuance

■ For the reasons discussed in the preamble, we amend title 27, Code of Federal Regulations, part 9, American Viticultural Areas, as follows:

#### **PART 9—AMERICAN VITICULTURAL AREAS**

■ 1. The authority citation for part 9 continues to read as follows:

**Authority:** 27 U.S.C. 205.

■ 2. Add a new § 9.178 to subpart C to read as follows:

#### **Subpart C—Approved American Viticultural Areas**

\* \* \* \* \*

**§ 9.178 Columbia Gorge.**

(a) *Name.* The name of the viticultural area described in this section is "Columbia Gorge".

(b) *Approved Maps.* The appropriate maps for determining the boundary of the Columbia Gorge viticultural area are 10 United States Geological Survey, 1:24,000 scale, topographic maps. They are—

(1) Hood River Quadrangle, Oregon—Washington, 1994;

(2) Northwestern Lake Quadrangle, Washington, 1983;

(3) Husum Quadrangle, Washington—Klickitat Co., 1994;

(4) Appleton Quadrangle, Washington—Klickitat Co., 1994;

(5) Lyle Quadrangle, Washington—Oregon, 1994;

(6) Brown Creek Quadrangle, Oregon, 1994;

(7) Ketchum Reservoir Quadrangle, Oregon, 1994;

(8) Parkdale Quadrangle, Oregon—Hood River Co., 1994;

(9) Dee Quadrangle, Oregon—Hood River Co., 1994; and

(10) Mt. Defiance Quadrangle, Oregon—Washington, 1994.

(c) *Boundary.* The Columbia Gorge viticultural area is located in Hood River and Wasco Counties, Oregon, and Skamania and Klickitat Counties, Washington. The area's point of beginning is on the Hood River map, at the intersection of Washington State Highway 14 and the R9E–R10E line, close to Tunnel 4, on the north bank of the Columbia River. From this point, the boundary line—

(1) Goes 1.5 miles straight north along the R9E–R10E line to the northwest corner of section 19, T3N, R10E (Hood River Quadrangle);

(2) Continues 2 miles straight east along the section line to the northeast corner of section 20, T3N, R10E (Hood River Quadrangle);

(3) Goes 4.1 miles straight north along the section line, crossing onto the Northwestern Lake map, to the northwest corner of section 33, T4N, R10E (Northwestern Lake Quadrangle);

(4) Continues 1 mile straight east on the section line to the northeast corner of section 33, T4N, R10E (Northwestern Lake Quadrangle);

(5) Goes 1 mile straight north on the section line to the northwest corner of section 27, T4N, R10E (Northwestern Lake Quadrangle);

(6) Continues 1 mile straight east on the section line to the northeast corner of section 27, T4N, R10E (Northwestern Lake Quadrangle);

(7) Goes 3.8 miles north on the section line to its intersection with the T4N–T5N line, R10E (Northwestern Lake Quadrangle);

(8) Continues 4 miles straight east on the T4N–T5N line, crossing onto the Husum map, to the northeast corner of section 5, R11E (Husum Quadrangle);

(9) Goes 2 miles straight south on the section line to the southwest corner of section 9, T4N, R11E (Husum Quadrangle);

(10) Continues 2 miles straight east on the section line to the northeast corner of section 15, T4N, R11E (Husum Quadrangle);

(11) Goes 3 miles straight south on the section line to the southwest corner of section 26, T4N, R11E (Husum Quadrangle);

(12) Continues 2 miles straight east on the section line, crossing onto the Appleton map, to the R11E–R12E line (Appleton Quadrangle);

(13) Goes 1.25 miles straight south on the R11E–R12E line to its intersection with the 2,000-foot contour line near the northeast corner of section 1, T3N (Appleton Quadrangle);

(14) Continues 11 miles south along the meandering 2,000-foot contour line through sections 1 and 12; then generally east through sections 7, 18, 8, and 9 to section 10; then generally north, weaving back and forth between sections 3, 4, 33, and 34; then south to section 3, until the 2,000-foot contour line first intersects the section line between sections 2 and 3, near a creek and an unnamed light duty road, T3N, R12E (Appleton Quadrangle);

(15) Goes 5.1 miles straight south on the section line, crossing onto the Lyle map, and continuing south until it intersects with the Klickitat River along the section 34 east boundary line, T3N, R12E (Lyle Quadrangle);

(16) Continues 0.9 mile generally southwest along the Klickitat River until it joins the Columbia River, and then continues 0.4 mile southwest in a straight line to the Washington-Oregon State line in the center of the Columbia River, section 3, T2N, R12E (Lyle Quadrangle);

(17) Follows the Oregon-Washington state line 2.4 miles generally southeast until it intersects with a northward extension of the R12E–R13E line, T2N (Lyle Quadrangle);

(18) Goes 11 miles straight south on the R12E–R13E line, crossing onto the Brown Creek map, to its intersection with the T1N–T1S Base Line at the southeast corner of section 36 (Brown Creek Quadrangle);

(19) Continues 6.1 miles straight west along the T1N–T1S Base Line, crossing onto the Ketchum Reservoir map, to its intersection with the R11E–R12E line at the southeast corner of section 36 (Ketchum Reservoir Quadrangle);

(20) Goes 6 miles straight north on the R11E–R12E line to its intersection with the T1N–T2N line at the northeast corner of section 1 (Ketchum Reservoir Quadrangle);

(21) Continues 6.2 miles straight west on the T1N–T2N line, crossing onto the Parkdale map, to its intersection with the R10E–R11E line at the southeast corner of section 36 (Parkdale Quadrangle);

(22) Goes 1.85 miles south on the R10E–R11E line to its intersection with the 2,000-foot contour line near the southeast corner of section 12, T1N, R10E (Parkdale Quadrangle);

(23) Continues 10.1 miles along the meandering 2,000-foot contour line generally southwest through sections 12, 13, 14, 23, 22, 26, 27, and 34 in T1N, and section 4 in T1S, to its intersection with the section 4 south boundary line, T1S, R10E (Parkdale Quadrangle);

(24) Goes 2.4 miles straight west along the section line to its intersection with the R9E–R10E line, just west of Trout Creek, at the southwest corner of section 6, T1S (Parkdale Quadrangle);

(25) Continues 1 mile straight north along the R9E–R10E line to its intersection with the T1S–T1N Base Line at the northwest corner of section 6 (Parkdale Quadrangle);

(26) Goes 1.3 miles straight west along the T1S–T1N Base Line, crossing onto the Dee map, to its intersection with the R9E–R10E line at the southwest corner of section 21 (Dee Quadrangle);

(27) Continues 3.1 miles north along the R9E–R10E line to the southeast corner of section 13, T1N (Dee Quadrangle);

(28) Goes 2 miles west along the section line to the southwest corner of section 14, T1N, R9E (Dee Quadrangle);

(29) Continues 1 mile straight north along the section line to the northwest corner of section 14, T1N, R9E (Dee Quadrangle);

(30) Goes 1 mile east along the section line to the northeast corner of section 14, T1N, R9E (Dee Quadrangle);

(31) Continues 2 miles straight north along the section line until its intersection with the T1N–T2N line, R9E (Dee Quadrangle);

(32) Goes 1 mile straight east along the T1N–T2N line to the southeast corner of section 36, R9E (Dee Quadrangle);

(33) Continues 6.75 miles straight north along the R9E–R10E line, crossing onto the Mt. Defiance map, to the Washington-Oregon State line in the Columbia River, T3N (Mt. Defiance Quadrangle);

(34) Goes 1 mile straight east-northeast along the State line, crossing onto the Hood River map, to its

intersection with a southward extension of the R9E–R10E line, T3N (Hood River Quadrangle); and

(35) Continues 0.6 mile north along the R9E–R10E extension, returning to the point of beginning at its intersection with the Washington State Highway 14, close to Tunnel 4, on the north bank of the Columbia River (Hood River Quadrangle).

Dated: March 26, 2004.

**Arthur J. Libertucci,**  
Administrator.

Approved: April 20, 2004.

**Timothy E. Skud,**

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 04–10513 Filed 5–7–04; 8:45 am]

BILLING CODE 4810–31–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[WI119–01a; FRL–7657–6]

#### Approval and Promulgation of Implementation Plans: Wisconsin: Kewaunee County Ozone Maintenance Plan Update

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving a revision to the plan prepared by Wisconsin to maintain the one-hour national ambient air quality standard (NAAQS) for ozone in the Kewaunee County maintenance area through the year 2012. Wisconsin's submitted the revision on January 28, 2003, and supplemented it on February 5, 2003 and February 27, 2003. This revision is required by the Clean Air Act. The effect of this approval is to ensure federal enforceability of the state air program plan and to maintain consistency between the state-adopted plan and the approved State Implementation Plan (SIP).

**DATES:** This “direct final” rule is effective July 9, 2004, unless EPA receives written adverse comment by June 9, 2004. If written 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:** Submit your comments, identified by Docket ID No. WI119 by one of the following methods: Federal eRulemaking Portal: [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov). 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, Criteria Pollutants Section, 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, Criteria Pollutant 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.

*Instructions:* Direct your comments to Docket ID No. WI119. 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 whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov), or e-mail. The federal [www.regulations.gov](http://www.regulations.gov) Web site is an “anonymous access” system, 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 [www.regulations.gov](http://www.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 Unit I of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in an index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is

restricted by statute. Publicly available docket materials are available 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 Michael Leslie, Environmental Engineer, at (312) 353–6680 before visiting the Region 5 office.) This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Michael Leslie, Environmental Engineer, Criteria Pollutants Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680, [leslie.michael@epa.gov](mailto:leslie.michael@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This section provides additional information by addressing the following questions:

- I. General Information
- II. What is a SIP?
- III. What is the Federal Approval Process for a SIP?
- IV. What are the criteria for approval of a maintenance plan?
- V. What does federal approval of a state regulation mean to me?
- VI. What is in the state's plan to maintain the standard?
- VII. Has Wisconsin held a Public Hearing?
- VIII. What action is EPA taking?
- IX. What are the Statutory and Executive Order Review Requirements?

#### I. General Information

##### A. Does This Action Apply to Me?

This action applies to the citizens, industries, and transportation agencies in Kewaunee County, Wisconsin.

##### B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, 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 claimed as CBI. In addition to one complete version of the comment that includes 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 public docket. Information so marked will not be disclosed except in