

Secretary has determined, pursuant to 5 U.S.C. 553(b)(B), that public comment is unnecessary and contrary to the public interest.

#### Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

#### Assessment of Educational Impact

Based on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

#### List of Subjects

##### *34 CFR Part 11*

Administrative practice and procedure, Advisory committees.

##### *34 CFR Part 50*

Cultural exchange programs, Foreign residence requirements, Reporting and recordkeeping requirements.

##### *34 CFR Part 302*

Education of handicapped, Elementary and secondary education, Grant programs-education.

##### *34 CFR Part 358*

Education of handicapped, Educational research, Grant programs-education.

##### *34 CFR Part 631*

Colleges and universities, Grant programs-education, Student aid.

##### *34 CFR Part 632*

Colleges and universities, Grant programs-education, Student aid.

##### *34 CFR Part 633*

Colleges and universities, Grant programs-education, Student aid.

##### *34 CFR Part 634*

Colleges and universities, Grant programs-education, Student aid.

##### *34 CFR Part 635*

Colleges and universities, Grant programs-education, Student aid.

##### *34 CFR Part 653*

Grant programs-education, Student aid, Teachers.

##### *34 CFR Part 769*

Grant programs-education, Libraries.

##### *34 CFR Part 770*

Grant programs-education, Libraries.

##### *34 CFR Part 771*

Grant programs-education, Libraries.

##### *34 CFR Part 772*

Grant programs-education, Libraries.

##### *34 CFR Part 776*

Grant programs-education, Libraries.

##### *34 CFR Part 777*

Grant programs-education, Libraries.

##### *34 CFR Part 785*

Educational research, Grant programs-education.

##### *34 CFR Part 786*

Adult education, Colleges and universities, Educational research, Grant programs-education, Elementary and secondary education.

##### *34 CFR Part 787*

Educational research, Grant-programs education, Teachers.

##### *34 CFR Part 788*

Educational research, Grant programs-education, States.

##### *34 CFR Part 789*

Educational research, Elementary and secondary education, Grant programs-education, Private schools.

##### *34 CFR Part 791*

Elementary and secondary education, Grant programs-education, Students.

Dated: April 23, 1996.

Richard W. Riley,

*Secretary of Education.*

(Catalog of Federal Domestic Assistance numbers do not apply.)

For reasons stated in the preamble, under the authority at 20 U.S.C. 1221e-3, the Secretary amends Title 34 of the Code of Federal Regulations by removing Parts 11, 50, 302, 358, 631, 632, 633, 634, 635, 653, 769, 770, 771, 772, 776, 777, 785, 786, 787, 788, 789, and 791.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[WI57-01-7105a, WI58-01-7106a, WI59-01-7107a; FRL-5424-2]

### Approval and Promulgation of State Implementation Plan; Wisconsin; Gasoline Storage Tank Vent Pipe, Traffic Marking Materials, and Solvent Metal Cleaning SIP Revisions

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving, through the direct final procedure, revisions to the Wisconsin State Implementation Plan (SIP) for ozone that were submitted on February 17, 1995 and April 12, 1995. These revisions require the control of volatile organic compound (VOC) emissions from the following sources: gasoline storage tanks, the application of traffic marking materials, and solvent metal cleaning operations. These regulations were submitted to generate reductions in VOC emissions, which the State will use to fulfill the 15 percent requirement of the amended Clean Air Act. In the proposed rules section of this Federal Register, the EPA is proposing approval of, and soliciting comments on, these requested SIP revisions. If adverse comments are received on this action, the EPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule, which is being published in the proposed rules section of this Federal Register. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time. This approval makes federally enforceable the State's rules that have been incorporated by reference.

**DATES:** This action will be effective June 28, 1996, unless adverse comments are received by May 29, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the proposed SIP revision and EPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson

Boulevard, Chicago, Illinois 60604. (Please telephone Douglas Aburano at (312) 353-6960 before visiting the Region 5 Office.)

**FOR FURTHER INFORMATION CONTACT:** Douglas Aburano, Environmental Engineer, Regulation Development Section, Air Toxics and Radiation Branch (AT-18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353-6960.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Section 182(b) of the Clean Air Act, as amended on November 15, 1990, sets forth the requirements for ozone nonattainment areas that have been classified as moderate or above. Section 182(b)(1)(A) requires those States with ozone nonattainment areas classified as moderate or above to submit plans to reduce VOC emissions by at least 15 percent from the 1990 baseline emissions. The 1990 baseline, as described by EPA's emission inventory guidance, is the amount of anthropogenic VOC emissions emitted on a typical summer day. As a part of its 15 percent plan, the State of Wisconsin has developed and adopted rules to reduce the VOC emissions from gasoline storage tanks, the application of traffic marking materials, and solvent metal cleaning operations in those areas of the State that are classified as moderate or higher.

##### **II. Evaluation of State Submittal**

On November 15, 1993, the State of Wisconsin submitted its proposed 15 percent plan. The 15 percent plan submittal was followed by several submittals that are the actual regulations that will achieve the reductions required by the 15 percent plan. The State's regulations are summarized below.

###### **A. Gasoline Storage Tank Vent Pipe Rule—NR 420.035**

Wisconsin submitted this regulation to the EPA on February 17, 1995 and supplemented it on June 14, 1995, as a SIP revision under the signature of the Governor's designee. The EPA found this rule to be complete in a letter to Donald Theiler, Director of WDNR's Bureau of Air Management, dated June 29, 1995. The WDNR followed the required legal procedures for adopting this rule which are prerequisites for EPA to consider including this rule in Wisconsin's federally enforceable ozone SIP. A public hearing for this rule was held on January 12, 1994.

Wisconsin has adopted a rule that requires gasoline storage tanks with a

storage capacity of 2,000 gallons, or greater, to install pressure vacuum valves on the vent pipes. Evaporative emissions will readily escape through the gasoline storage tank vent pipe if the pipe has no control device to prevent this. These pressure vacuum valves will control evaporative VOC emissions from the storage tanks.

###### **B. Traffic Marking Materials Rule—NR 422.17**

Wisconsin submitted this regulation to EPA on April 12, 1995 and supplemented it on June 14, 1995, as a SIP revision under the signature of the Governor's designee. The EPA found this rule to be complete in a letter to Donald Theiler, Director of WDNR's Bureau of Air Management, dated June 29, 1995. The WDNR followed the required legal procedures for adopting this rule, which are prerequisites for EPA to consider including this rule in Wisconsin's federally enforceable ozone SIP. A public hearing for this rule was held on January 12, 1994.

The emission of VOCs from the application of traffic marking materials onto paved surfaces occurs during the drying of the markings themselves or from the drying of the adhesives used to affix the traffic markings. The State of Wisconsin has adopted a rule that will limit the VOC content of the traffic marking materials that are liquid or limit the amount of VOCs that can be emitted per mile of traffic marking applied for solid materials.

###### **C. Solvent Metal Cleaning Rule—NR 423.03**

Wisconsin submitted this regulation to EPA on April 12, 1995 and supplemented it on June 14, 1995, as a SIP revision under the signature of the Governor's designee. The EPA found this rule to be complete in a letter to Donald Theiler, Director of WDNR's Bureau of Air Management, dated June 29, 1995. The WDNR followed the required legal procedures for adopting this rule which are prerequisites for EPA to consider including this rule in Wisconsin's federally enforceable ozone SIP. A public hearing for this rule was held on January 12, 1994.

The State of Wisconsin currently has a solvent metal cleaning rule in place and this rule has been approved into the State's SIP as representing reasonably available control technology (RACT) for this source category. In order to obtain additional reductions that would be creditable towards the State's 15 percent plan, the State has: Added the category of wipe cleaning to the types of actions that require control under this rule (NR 423.02(10), NR 423.03(7)); established

control technique requirements beyond those considered to be RACT (NR 423.03(3) (h) to (j), NR 423.03(4) (n) to (r), NR 423.03 (h) to (j), NR 423.03(6)(a) 8 and 9); added a provision that requires sources to also consider throughput on the applicability of size exemption cutoffs (NR 423.03(2) (c) to (f)); established more extensive recordkeeping requirements (NR 423.03(10)); and established a revised compliance schedule (NR 423.03(8)).

More detailed analyses of the State's submittals are available at the Regional Office listed above. In determining the approvability of these VOC rules, EPA evaluated the rules for consistency with Federal requirements, including Section 110 and Part D of the Clean Air Act.

##### **III. Final Rulemaking Action**

The EPA approves Wisconsin's rules for Gasoline Storage Tank Vent Pipes, the Application of Traffic Marking Materials, and Solvent Metal Cleaning thereby making these rules federally enforceable.

Because EPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on June 28, 1996. However, if we receive adverse comments by May 29, 1996, EPA will publish a document that withdraws this action.

##### **IV. Miscellaneous**

###### **A. Applicability To Future SIP Decisions**

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

###### **B. Executive Order 12866**

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), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

###### **C. Regulatory Flexibility**

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 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.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 256-66 (1976).

#### D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, the 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 the 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 today does not include a Federal mandate that may result in estimated 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

#### E. 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 June 28, 1996. 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, Ozone, Reporting and recordkeeping requirements.

Dated: November 6, 1995.

Valdas V. Adamkus,

*Regional Administrator.*

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

### PART 52—[AMENDED]

#### Subpart YY—Wisconsin

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

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

2. Section 52.2570 is amended by adding paragraphs (c) (84), (85), and (86) to read as follows:

#### § 52.2570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(84) A revision to the ozone State Implementation Plan (SIP) was submitted by the Wisconsin Department of Natural Resources on February 17, 1995, and supplemented on June 14, 1995. This revision consists of a volatile organic compound regulation that requires controls for gasoline storage tank vent pipes.

(i) Incorporation by reference. The following section of the Wisconsin Administrative Code is incorporated by reference.

(A) NR 420.035 as created and published in the (Wisconsin) Register, July, 1994, No. 463, effective August 1, 1994.

(85) A revision to the ozone State Implementation Plan (SIP) was submitted by the Wisconsin Department of Natural Resources on April 12, 1995, and supplemented on June 14, 1995, and January 19, 1996. This revision consists of a volatile organic compound regulation that requires the control of emissions from traffic markings.

(i) Incorporation by reference. The following section of the Wisconsin Administrative Code is incorporated by reference.

(A) NR 422.02(16e), (42q), (42s) and (47m) as created and published in the

(Wisconsin) Register, July, 1994, No. 463, effective August 1, 1994.

(B) NR 422.17 as created and published in the (Wisconsin) Register, July, 1994, No. 463, effective August 1, 1994.

(86) A revision to the ozone State Implementation Plan (SIP) was submitted by the Wisconsin Department of Natural Resources on April 12, 1995, and supplemented on June 14, 1995, and January 19, 1996. This revision consists of a volatile organic compound regulation that requires additional controls on solvent metal cleaning operations. This rule is more stringent than the RACT rule it is replacing.

(i) Incorporation by reference. The following section of the Wisconsin Administrative Code is incorporated by reference.

(A) NR 423.02(10) as renumbered from NR 423.02(9), amended and published in the (Wisconsin) Register, August, 1994, No. 464, effective September 1, 1994. NR 423.02(11) as renumbered from NR 423.02(10) and published in the (Wisconsin) Register, August, 1994, No. 464, effective September 1, 1994. NR 423.02(9) and (12) as created and published in the (Wisconsin) Register, August, 1994, No. 464, effective September 1, 1994.

(B) NR 423.03 as created and published in the (Wisconsin) Register, August, 1994, No. 464, effective September 1, 1994.

(C) NR 425.03(12)(a)7. as amended and published in the (Wisconsin) Register, August, 1994, No. 464, effective September 1, 1994.

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### 40 CFR Part 300

[FRL-5461-4]

#### National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

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

**ACTION:** Notice of deletion Gallaway Pits Superfund Site, in Fayette County, Tennessee from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 4 announces the deletion of the Gallaway Pits Site from the National Priorities List (NPL), (Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP)). EPA and the State have determined that all appropriate Fund-