(c) * * *
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(i) * * *
(A) * * *
(*2*) Rule 4603 adopted on April 11, 1991, and amended on December 20, 2001.
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[FR Doc. 02–15871 Filed 6–24–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI104–02–7334; FRL–7226–8]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Excess Volatile Organic Compound Emissions Fee Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving a rule that revises Wisconsin's State Implementation Plan (SIP) for ozone. The rule requires major stationary sources of volatile organic compounds (VOC) in the Milwaukee nonattainment area to pay a fee to the state if the area fails to attain the one-hour national ambient air quality standard for ozone by 2007. The fee must be paid beginning in 2008 and in each calendar year thereafter, until the area is redesignated to attainment of the one-hour ozone standard. Wisconsin submitted this rule on December 22, 2000, as part of the state's demonstration of attainment for the one-hour ozone standard. EPA proposed approval of this SIP revision on March 6, 2002.

EFFECTIVE DATE: This rule is effective on August 26, 2002.

ADDRESSES: Copies of the SIP revision and EPA's analysis are available for inspection at the following location: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Kathleen D'Agostino at (312) 886–1767 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Regulation Development 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) 886–1767.

SUPPLEMENTARY INFORMATION:

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I. What Action Is EPA Taking?

The EPA is approving a rule that revises Wisconsin's ozone SIP. The rule requires major stationary sources of VOC in the Milwaukee nonattainment area to pay a fee to the state if the area fails to attain the one-hour national ambient air quality standard for ozone by 2007. The fee must be paid beginning in 2008 and in each calendar year thereafter, until the area is redesignated to attainment of the one-hour ozone standard.

The EPA is approving this rule because it is consistent with the requirements of the Clean Air Act. This approval finalizes EPA's March 6, 2002 proposed approval.

II. Did Anyone Comment on the Proposed Approval?

We received no comments on our March 6, 2002 proposal to approve Wisconsin's excess emissions fee rule.

III. What Administrative Requirements Did EPA Consider?

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain an unfunded mandate, nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272 note, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a SIP submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing Wisconsin's rule in today's notice, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order, and has determined that the rule's requirements do not constitute a taking. This rule does not impose an information collection burden under the

provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 26, 2002. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 17, 2002.

Robert Springer,

Acting Regional Administrator, Region 5.

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 *et seq.*

Subpart YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(106) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(106) Wisconsin submitted a revision to its State Implementation Plan for ozone on December 22, 2000. The rule requires major stationary sources of volatile organic compounds in the Milwaukee nonattainment area to pay a fee to the state if the area fails to attain the one-hour national ambient air quality standard for ozone by 2007.

(i) Incorporation by reference. The following section of the Wisconsin Administrative code is incorporated by reference: NR 410.06 as created and published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

[FR Doc. 02–15870 Filed 6–24–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 15

[ET Docket 99–231; FCC 02–151]

Spread Spectrum Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Commission's rules to improve spectrum sharing by unlicensed devices operating in the 2.4 GHz band (2400–2483.5 MHz), to provide for introduction of new digital transmission technologies, and eliminate unnecessary regulations for spread spectrum systems.

DATES: Effective July 25, 2002.

FOR FURTHER INFORMATION CONTACT: Neal McNeil, Office of Engineering and Technology, (202) 418–2408, TTY (202) 418–2989, e-mail: nmcneil@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second *Report and Order,* ET Docket 99–231, FCC 02–151, adopted May 16, 2002 and released May 30, 2002. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. It is also available on the Commission's internet site at www.fcc.gov. The complete text of this document also may be purchased from the Commission's duplication contractor Qualex International, (202) 863–2893 voice, (202) 863–2898 Fax, *qualexint@aol.com* email, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554.

Summary of Second Report and Order

1. *Digital Systems.* In the *Further Notice of Proposed Rule Making* (''*FNPRM*'') 66 FR 31585, June 12, 2001, in this proceeding, we observed that a number of new digital modulation technologies have been developed that have spectrum characteristics similar to direct sequence spread spectrum systems. The digital systems spread their transmitted energy across a wide bandwidth, thereby minimizing the amount of energy transmitted in any one portion of the occupied frequency band. Therefore, such digital modulation systems may exhibit no more potential to cause interference to other devices than direct sequence systems. However, because digital modulation systems do not meet the Commission's definition of a spread spectrum system, they have not been allowed to operate under § 15.247. In the *FNPRM*, we proposed to amend § 15.247 to provide for use of these new digital technologies in the 915 MHz, 2.4 GHz, and 5.7 GHz bands. We invited comment on whether these technologies should be allowed to operate at the same power levels as direct sequence spread spectrum systems, specifically 1 Watt maximum output power with a maximum power spectral density of 8 dBm per 3 kHz.

2. Based on analysis of the record, we conclude that systems using digital modulation techniques can operate under the same rules as direct sequence spread spectrum devices in the 915 MHz, 2.4 GHz, and 5.7 GHz band without posing additional risk of interference. Therefore, we will remove any regulatory distinction between direct sequence spread spectrum systems and systems using other forms of digital modulation. We amend part 15 to replace references to ''direct sequence spread spectrum'' with the term ''digital modulation'' and permit all types of digitally modulated systems to be regulated under § 15.247. ''Digital modulation'' in the context of 47 CFR 15.247 will have the same meaning as defined in 47 CFR 15.403(b). This change will permit the authorization of newly developing high data rate technologies. Under the new rules, digital modulation systems will be subject to the same power output maximum, 1 Watt, and power spectral density limits, 8 dBm per 3 kHz, as direct sequence spread spectrum systems.

3. *Processing Gain.* The rules currently require direct sequence spread spectrum devices to have a processing gain of at least 10 dB. Processing gain represents the improvement to the received signal-to-noise ratio, after