

**§ 52.420 Identification of plan.**

(e) \* \* \*

\* \* \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Reasonable Further Progress Plan (RFP), Reasonably Available Control Measures, and Contingency Measures.	Delaware portion of the Philadelphia 1997 8-hour ozone moderate nonattainment area.	6/13/07	4/8/10 [Insert page number where the document begins].	
2002 Base Year Inventory for VOC, NO <sub>x</sub> , and CO.	Delaware portion of the Philadelphia 1997 8-hour ozone moderate nonattainment area.	6/13/07	4/8/10 [Insert page number where the document begins].	
2008 RFP Transportation Conformity Budgets.	Delaware portion of the Philadelphia 1997 8-hour ozone moderate nonattainment area.	6/13/07	4/8/10 [Insert page number where the document begins].	

■ 3. Section 52.423 is amended by revising the section heading and by adding paragraph (b) to read as follows:

**§ 52.423 Base Year Emissions Inventory.**

\* \* \* \* \*

(b) EPA approves as a revision to the Delaware State Implementation Plan the 2002 base year emissions inventories for the Delaware portion of the Philadelphia 1997 8-hour ozone moderate nonattainment area submitted by the Secretary of the Department of Natural Resources and Environmental Control on June 13, 2007. This submittal consists of the 2002 base year point,

area, non-road mobile, and on-road mobile source inventories in area for the following pollutants: Volatile organic compounds (VOC), carbon monoxide (CO) and nitrogen oxides (NO<sub>x</sub>).

■ 4. Section 52.426 is amended by adding paragraphs (g) and (h) to read as follows:

**§ 52.426 Control strategy plans for attainment and rate-of-progress: Ozone.**

\* \* \* \* \*

(g) EPA approves revisions to the Delaware State Implementation Plan consisting of the 2008 reasonable further progress (RFP) plan, reasonably

available control measures, and contingency measures for the Delaware portion of the Philadelphia 1997 8-hour ozone moderate nonattainment area submitted by the Secretary of the Department of Natural Resources and Environmental Control on June 13, 2007.

(h) EPA approves the following 2008 RFP motor vehicle emissions budgets (MVEBs) for the Delaware portion of the Philadelphia 1997 8-hour ozone moderate nonattainment area submitted by the Secretary of the Department of Natural Resources and Environmental Control on June 13, 2007:

**TRANSPORTATION CONFORMITY EMISSIONS BUDGETS FOR THE DELAWARE PORTION OF THE PHILADELPHIA AREA FOR THE 2008 RATE OF PROGRESS PLAN**

County	2008 Emissions (tons per day)		Effective date of adequacy determination or SIP approval
	VOC	NO <sub>x</sub>	
Kent .....	4.14	9.68	January 5, 2009, (73 FR 77682), published December 19, 2008.
New Castle .....	10.61	21.35	
Sussex .....	7.09	12.86	
State Total .....	21.84	43.89	

[FR Doc. 2010-7878 Filed 4-7-10; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R05-OAR-2009-0731; FRL-9129-7]

**Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Particulate Matter Standards**

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

**ACTION:** Direct final rule.

**SUMMARY:** Wisconsin updated its state ambient air quality standards rules to match the current Federal standards. The updates were made to the particulate matter standards by adding fine particulate standards and revoking the state's course particulate standards. EPA revised its particulate matter standards in October 2006 by strengthening the 24-hour fine particulate standard and revoking the annual standard for course particulate. EPA is approving the revisions to the Wisconsin State Implementation Plan (SIP) as requested by the state on September 11, 2009.

**DATES:** This direct final rule will be effective June 7, 2010, unless EPA receives adverse comments by May 10, 2010. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2009-0731, by one of the following methods:

1. *http://www.regulations.gov*: Follow the online instructions for submitting comments.

2. *E-mail: compher.michael@epa.gov*.

3. *Fax: (312) 692-2511*.

4. *Mail:* Michael Compher, Acting Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* Michael Compher, Acting Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2009-0731. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, 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 *http://www.regulations.gov* or e-mail. The *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 *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.

**Docket:** All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Matt Rau, Environmental Engineer, at (312) 886-6524 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, *rau.matthew@epa.gov*.

#### **SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the background for this action?
- II. What is EPA's analysis of the revision?
- III. What are the environmental effects of this action?
- IV. What action is EPA taking?
- V. Statutory and Executive Order Reviews

#### **I. What is the background for this action?**

Wisconsin requested a revision to its SIP on September 11, 2009. The request is to update the particulate matter ambient air quality standards. The particulate matter standards were revised to match the 2006 Federal standards. On October 17, 2006, EPA revised its particulate matter ambient air quality standards, strengthening the 24-hour fine particulate (PM<sub>2.5</sub>) standard and retaining the annual PM<sub>2.5</sub> standard. EPA also revoked the annual standard for coarse particulate matter (PM<sub>10</sub>) because available evidence did not

suggest a link between long term PM<sub>10</sub> exposure and health problems. The 24-hour PM<sub>10</sub> standard remains in place.

#### **II. What is EPA's analysis of the revision?**

Wisconsin revised chapters NR 404 and 484 of the Wisconsin Administration Code. Wisconsin added the definition of PM<sub>2.5</sub> and the PM<sub>2.5</sub> ambient air quality standards to its rules to be consistent with current Federal standards. Wisconsin also removed the annual PM<sub>10</sub> standard.

The revisions made by Wisconsin are in accordance with the current Federal PM<sub>2.5</sub> and PM<sub>10</sub> standards. EPA strengthened the particulate matter ambient air quality standards in 2006 to reflect the latest scientific data for protecting human health, and Wisconsin has adopted the same standards to keep its ambient air quality standards current with the Federal standards.

#### **III. What are the environmental effects of this action?**

This action incorporates the Federal PM<sub>2.5</sub> and PM<sub>10</sub> ambient air quality standards into the Wisconsin SIP, including the more stringent standard for 24-hour PM<sub>2.5</sub> standard. The current Federal standards are effective and enforceable nationwide. The revisions add clarity for Wisconsin sources and stakeholders, as it updates the PM<sub>10</sub> standards and adds the PM<sub>2.5</sub> standards to the state rules.

Particulate matter interferes with lung function when inhaled. Exposure to particulates can cause heart and lung disease. Particulate matter also aggravates asthma. Airborne particulate is the main source of haze that causes a reduction in visibility. Particulate matter is also deposited on the ground and in the water, changing nutrient and chemical balances.

#### **IV. What action is EPA taking?**

EPA is approving revisions to the Wisconsin SIP. Wisconsin revised chapters NR 404 and 484 of the Wisconsin Administration Code. In chapter NR 404, the state removed the annual PM<sub>10</sub> standard, added the definition of PM<sub>2.5</sub>, and added the 2006 PM<sub>2.5</sub> standards. Wisconsin incorporated by reference the Code of Federal Regulations (CFR) monitoring requirements into chapter NR 484 that correspond to the chapter NR 404 revisions. Specifically, Wisconsin incorporated 40 CFR part 50 appendices K, L, and M and 40 CFR part 53 by reference into chapter NR 484.

We are publishing this action without prior proposal because we view this as

a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective June 7, 2010 without further notice unless we receive relevant adverse written comments by May 10, 2010. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective June 7, 2010.

#### V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 June 7, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the

proposed rulemaking. 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, Incorporation by reference, Intergovernmental relations, Particulate matter.

Dated: March 11, 2010.

**Walter W. Kovalick Jr.,**

*Acting Regional Administrator, Region 5.*

■ 40 CFR part 52 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)(121) to read as follows:

##### § 52.2570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(121) On September 11, 2009, the Wisconsin Department of Natural Resources submitted a State Implementation Plan revision request. The state's ambient air quality standards were revised to match the 2006 Federal ambient air quality standards for particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>).

(i) *Incorporation by reference.* The following sections of the Wisconsin Administrative Code are incorporated by reference:

(A) NR 404.02 Definitions. NR 404.02(4e) "PM<sub>2.5</sub>" as published in the Wisconsin Administrative Register, on September 30, 2009, No. 645, effective October 1, 2009.

(B) NR 404.04 Ambient Air Quality Standards. NR 404.04(8) "PM<sub>10</sub>: PRIMARY AND SECONDARY STANDARDS." and NR 404.04(9) "PM<sub>2.5</sub>:"

PRIMARY AND SECONDARY STANDARDS" as published in the Wisconsin Administrative Register, on September 30, 2009, No. 645, effective October 1, 2009.

(ii) *Additional material.*

(A) NR 484.03 Code of federal regulations. NR 484.03(5) in Table 1 as published in the Wisconsin Administrative Register, on September 30, 2009, No. 645, effective October 1, 2009.

(B) NR 484.04 Code of federal regulations appendices. NR 484.04(6), (6g), and (6r) in Table 2, as published in the Wisconsin Administrative Register,

on September 30, 2009, No. 645,  
effective October 1, 2009.

\* \* \* \* \*

[FR Doc. 2010-7968 Filed 4-7-10; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2007-0993; FRL-9134-8]

### Approval and Promulgation of Implementation Plans; New Mexico; Interstate Transport of Pollution

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Mexico for the purpose of addressing the “good neighbor” provisions of the Clean Air Act (CAA) section 110(a)(2)(D)(i) for the 1997 ozone standards and the 1997 PM<sub>2.5</sub> standards. This SIP revision satisfies a portion of the State of New Mexico’s obligation to submit a SIP revision that demonstrates that adequate provisions are in place to prohibit air emissions from adversely affecting another state’s air quality through interstate transport. This rulemaking action is being taken under section 110 of the CAA and addresses one element of CAA section 110(a)(2)(D)(i), which pertains to prohibiting air pollutant emissions from within New Mexico from significantly contributing to nonattainment of the ozone and PM<sub>2.5</sub> NAAQS in any state.

**DATES:** This direct final rule will be effective June 7, 2010 without further notice unless EPA receives relevant adverse comments by May 10, 2010. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2007-0993, by one of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>.
- Follow the online instructions for submitting comments.
- *EPA Region 6 “Contact Us” Web site:* <http://epa.gov/region6/r6coment.htm>. Please click on “6PD (Multimedia)” and select “Air” before submitting comments.
- *E-mail:* Mr. Guy Donaldson at [donaldson.guy@epa.gov](mailto:donaldson.guy@epa.gov). Please also send a copy by e-mail to the person

listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket No. EPA-R06-OAR-2007-0993. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, 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 <http://www.regulations.gov> or e-mail. The <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 <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.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material,

will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The state submittal is also available for public inspection during official business hours, by appointment, at the New Mexico Environment Department, Air Quality Bureau, 1190 St. Francis Drive, Santa Fe, New Mexico 87502.

**FOR FURTHER INFORMATION CONTACT:** Emad Shahin, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-6717; fax number (214) 665-7263; e-mail address [shahin.emad@epa.gov](mailto:shahin.emad@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

### Outline

- I. What Action Is EPA Taking?
- II. What Is a SIP?
- III. What Is the Background for This Action?
- IV. What Is EPA’s Evaluation of the State’s Submission?
- V. Final Action
- VI. Statutory and Executive Order Reviews

### I. What Action Is EPA Taking?

We are approving a submission from the State of New Mexico demonstrating that New Mexico has adequately addressed one of the required elements of the CAA section 110(a)(2)(D)(i), the element that prohibits air pollutant emissions from sources within a state from significantly contributing to nonattainment of the relevant NAAQS in any other state. We have determined that emissions from sources in New Mexico do not significantly contribute to nonattainment of the 1997 ozone standards or of the 1997 PM<sub>2.5</sub> standards in any other state. The remaining three