Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct cost of compliance on them. We have analyzed this proposed rule under Executive Order 13132 and have determined that this proposed rule does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not economically significant and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have 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 is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 32(e), of Commandant Instruction M16475.lD, this proposed rule is categorically excluded from further environmental documentation. This action is categorically excluded under paragraph 32(e) as it is for the purpose of promulgating an operation regulation for this drawbridge. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, 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. § 117.258 is added to read as follows:

§ 117.258 Apalachicola River.

The draw of the CSX Railroad bridge, mile 105.9, at River Junction shall open on signal Monday through Friday from 8 a.m. until 4 p.m. At all other times, the bridge will open on signal if at least 4 hours notice is given.

Dated: March 27, 2003.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, , Commander, Eighth Coast Guard District.

[FR Doc. 03–8690 Filed 4–9–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY57–252, FRL–7480–4]

Approval and Promulgation of Implementation Plans; New York State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the New York State Implementation Plan (SIP) for ozone concerning the control of volatile organic compounds. The SIP revision consists of amendments to New York Codes, Rules and Regulations part 226, ''Solvent Metal Cleaning,'' part 235, ''Consumer Products'' and the adoption of new rule part 239, ''Portable Fuel Container Spillage Control.'' This SIP revision consists of control measures needed to meet the shortfall emissions reduction identified by EPA in New York's 1-hour ozone attainment demonstration SIP. The intended effect of this action is to approve control strategies required by the Clean Air Act which will result in emission reductions that will help achieve attainment of the national ambient air quality standard for ozone.

DATES: Comments must be received on or before May 12, 2003.

ADDRESSES: All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

A copy of the New York submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch,

Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3381.

SUPPLEMENTARY INFORMATION:

I. What Is Required by the Clean Air Act and How Does It Apply to New York?

Section 182 of the Clean Air Act (Act) specifies the required State Implementation Plan (SIP) submissions and requirements for areas classified as nonattainment for ozone and when these submissions and requirements are to be submitted to EPA by the states. The specific requirements vary depending upon the severity of the ozone problem. The New York-Northern New Jersey-Long Island area is classified as a severe ozone nonattainment area. Under section 182, severe ozone nonattainment areas were required to submit demonstrations of how they would attain the 1-hour standard. On December 16, 1999 (64 FR 70364), EPA proposed approval of New York's 1-hour ozone attainment demonstration SIP for the New York-Northern New Jersey-Long Island nonattainment area. In that rulemaking, EPA identified an emission reduction shortfall associated with New York's 1-hour ozone attainment demonstration SIP, and required New York to address the shortfall. In a related matter, the Ozone Transport Commission (OTC) developed control measures into model rules for a number of source categories and estimated emission reduction benefits from implementing these model rules. These model rules were designed for use by states in developing their own regulations to achieve additional emission reductions to close emission shortfalls.

On February 4, 2002 (67 FR 5170), EPA approved New York's 1-hour ozone attainment demonstration SIP. This approval included an enforceable commitment submitted by New York to adopt additional control measures to close the shortfall identified by EPA for attainment of the 1-hour ozone standard.

II. What Was Included in New York's Submittal?

On December 30, 2002, Carl Johnson, Deputy Commissioner, New York State Department of Environmental Conservation (NYSDEC), submitted to EPA a revision to the SIP which included state adopted revisions to two regulations. The two regulations consist of New York Codes, Rules and Regulations (NYCRR), part 235, ''Consumer Products'' and part 239, ''Portable Fuel Container Spillage Control.'' In addition, on January 17, 2003, Deputy Commissioner Johnson submitted to EPA a revision to the SIP which included state proposed revisions to NYCRR, part 226, ''Solvent Metal Cleaning.'' All of these revisions will provide volatile organic compound (VOC) emission reductions to address, in part, the shortfall identified by EPA. New York used the OTC model rules as guidelines to develop its rules.

A. What Do the Revisions to Part 226, ''Solvent Metal Cleaning'' Consist of?

Part 226 is intended to establish hardware and operating requirements for vapor cleaning machines used to clean metal parts as well as solvent volatility limits and operating practices for cold cleaners. The revisions to part 226 include clarifications to the general requirements; equipment specifications; and operating requirements, including recordkeeping requirements for cold cleaning degreasers; and exemptions. The revisions to part 226 also include a solvent vapor pressure specification of 1.0 millimeters of mercury at 20 degrees Celsius which becomes mandatory January 1, 2004, unless a process-specific Reasonably Available Control Technology (RACT) demonstration has been approved by the NYSDEC and EPA. The alternate RACT provision is available for situations in which it can be demonstrated that a solvent metal cleaning process cannot be controlled to comply with the requirements of part 226 for reasons of technological and economic infeasibility.

B. What Do the Revisions to Part 235, ''Consumer Products'' Consist of?

The revisions to part 235 include VOC content limits for 43 separate consumer product categories. Revised part 235 establishes that no person shall sell, supply, offer for sale, or manufacture consumer products on or after January 1, 2005, which contain VOCs in excess of the VOC content limits specified by New York for those products. Part 235 includes specific exemptions, as well as certification and product labeling requirements, recordkeeping and reporting requirements, and test methods and procedures, and provisions for acquiring variances and approvals of innovative products exemptions (IPEs) and alternative compliance plans (ACPs).

The part 235 IPE and ACP provisions provide alternatives to complying with the VOC content limits specified in the Table of Standards in part 235. The State has provided criteria for documentation of emissions and the VOC content limit of the product as well as procedures for submissions to apply for IPEs and ACPs. Part 235 also allows a manufacturer who was granted an IPE or ACP pursuant to the California Air Resource Board (CARB) provisions in sections 94511, 94503.5 and 94540–94555 of title 17 of the California Code of Regulations to apply for and obtain an IPE or ACP in New York State. The IPE or ACP can become effective in New York State for the period of time that the CARB IPE or ACP remains in effect, provided that all the consumer products within the CARB IPE or ACP are regulated by part 235. Any manufacturer seeking such an exemption on this basis must submit to the NYSDEC, a copy of the CARB IPE or ACP decision (*i.e.*, the Executive Order) which includes all conditions established by CARB applicable to the IPE or ACP. For those consumer products that have not been granted an exemption by CARB, the manufacturer may apply to the NYSDEC for an IPE or ACP in accordance with the criteria specified in part 235.

Part 235 also establishes procedures for obtaining a variance. Any person who cannot comply with requirements set forth in part 235, due to extraordinary reasons that are beyond that person's reasonable control, may apply in writing to the NYSDEC for a variance. An application for a variance must specify the grounds upon which the variance is sought, the proposed date(s) by which compliance with the part 235 VOC limits will be achieved and a compliance report reasonably detailing the method(s) by which compliance will be achieved.

C. What Do the Requirements of Part 239, ''Portable Fuel Container Spillage Control'' Consist of?

Part 239 is intended to reduce refueling emissions from those equipment and engines in the off-road categories that are predominantly refueled with portable fuel containers. Part 239 applies to any person who sells, supplies, offers for sale, or manufactures for sale in New York State portable fuel container(s) or spout(s) or both for use in New York State. Part 239 includes exemptions; administrative requirements which include date coding; compliance certification; labeling; recordkeeping requirements; a manufacturer warranty requirement; and test methods and procedures.

Part 239 establishes performance standards applicable on or after January 1, 2003, which are divided into two sections. One standard specifically addresses spill-proof systems and the other addresses spill-proof spouts for use in portable fuel containers. Included are performance standards for automatic shut off, automatic closure, container openings, fuel flow rates and fill levels.

Part 239 also includes a permeation rate for spill-proof systems only.

Part 239 allows the manufacturers of noncompliant products a one year sell-through period. Manufacturers may continue to sell an existing product provided that the products were manufactured before January 1, 2003, and the date of manufacture or a date code representing the date of manufacture is clearly displayed on that product.

Part 239 also establishes IPE provisions which allow for alternatives to complying with the performance standards specified in part 239. As in the case of part 235, if a manufacturer was granted an IPE pursuant to the CARB provisions, the IPE can become effective in New York State for the period of time that the CARB IPE remains in effect. Section 2467.4 of title 13 of the California Code of Regulations, specifies the CARB provisions applicable to portable fuel containers. Any manufacturer seeking such an exemption on this basis must submit to the NYSDEC, a copy of the CARB IPE decision (*i.e.,* the Executive Order), which includes all conditions established by CARB applicable to the IPE. For those portable fuel containers or spouts that have not been granted an exemption by CARB, the manufacturer may apply to the NYSDEC for an IPE in accordance with the criteria specified in part 239.

In addition, part 239 provides procedures for obtaining a variance. Any person who cannot comply with the performance standards set forth in part 239, due to extraordinary reasons that are beyond that person's reasonable control, may apply in writing to the NYSDEC for a variance. An application for a variance must specify the grounds upon which the variance is sought, the proposed date(s) by which compliance with the part 239 VOC limits will be achieved and a compliance report reasonably detailing the method(s) by which compliance will be achieved.

III. What Is EPA's Conclusion?

EPA has evaluated New York's submittal for consistency with the Act, EPA regulations, and EPA policy. EPA has determined that the revisions made to part 226, part 235 and new part 239 of title 6 of the New York Codes, Rules and Regulations, entitled, ''Solvent Metal Cleaning'', ''Consumer Products'' and ''Portable Fuel Container Spillage Control'', respectively, meet the SIP revision requirements of the Act with the following exception. While the provisions related to alternate test methods, variances, innovative products and alternate compliance plans pursuant to part 235, ''Consumer Products'' or part 239, ''Portable Fuel Container Spillage Control'' are acceptable, the specific application of those provisions (those that are granted or accepted by NYSDEC) will not be recognized as meeting Federal requirements until they are approved by EPA on a case-by-case basis as a SIP revision. Therefore, EPA is proposing to approve the regulations as part of the New York SIP with the exception that the specific application of provisions associated with alternate test methods, variances, innovative products and alternate compliance plans, must be submitted as SIP revisions.

In addition, the revisions to part 226, ''Solvent Metal Cleaning'' are being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrent with the state's procedures for amending its regulations. If the proposed revision is substantially changed in areas other than those identified in this document, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made to part 226 as cited in this document, EPA will publish a final rulemaking on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by New York and submitted formally to EPA for incorporation into the SIP. It should be noted, that if for some reason the adoption process by New York for part 226 is delayed, it is likely that EPA will proceed with a final rulemaking action on the revisions to parts 235 and 239 and address the final rulemaking action for part 226 separately.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This proposed 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 proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This proposed 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.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed 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.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 31, 2003.

Jane M. Kenny,

Regional Administrator, Region 2.

[FR Doc. 03–8826 Filed 4–9–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI–113–7343B; FRL–7466–7]

Approval and Promulgation of State Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a revision to Wisconsin's State Implementation Plan (SIP) for the attainment of the one-hour ozone standard for the Milwaukee-Racine area. This SIP revision, submitted to EPA on December 16, 2002, provides new compliance options for sources subject to the state's rules limiting emissions of nitrogen oxides (NO_X) from large electricity generating units in southeast Wisconsin. Under the revised SIP, sources would have the option of complying with emissions limits on a per unit basis or complying as part of an emissions averaging plan that also includes an emissions cap. In addition, the revision creates a new categorical emissions limit for new integrated gasification combined cycled units.

In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the state's request as a direct final rule without prior proposal, because EPA views this action as noncontroversial and anticipates no adverse comments. The rationale for approval is set forth in the direct final rule. If EPA receives no written adverse comments, EPA will take no further action on this proposed rule. If EPA receives written adverse comments, we 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. In that event, EPA will address all relevant public comments in a subsequent final rule based on this proposed rule. In either event, EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: EPA must receive comments on this action by May 12, 2003.

ADDRESSES: You should mail written comments to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of the state's request is available for inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Alexis Cain, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–7018.

SUPPLEMENTARY INFORMATION:

I. What Action Is EPA Taking Today?
II. Where Can I Find More Information About this Proposal and Corresponding Direct Final Rule?

I. What Action Is EPA Taking Today?

EPA is proposing to approve, as part of the Wisconsin ozone SIP, rules that would allow sources to use emissions averaging and an emissions cap as a option for complying with ozone season limits on emissions of NO_X. These limits apply to large electricity generating units in southeast Wisconsin; EPA approved the rules setting these NO_X emissions limits into Wisconsin's SIP on November 13, 2001 (66 FR 56931). The limits are expressed in mass of allowable emissions per unit of heat input (pounds per million Btu).

Emissions averaging will allow units subject to the NO_X emissions limits of NR 428 of the Wisconsin Administrative Code to create emissions averaging plans in which the compliance of multiple units would be assessed collectively, based on their aggregate emissions rate. The allowable emissions rate for each unit is reduced by 0.01 pounds per million btu in determining the aggregate allowable emissions rate. Beginning in 2008, sources that participate in an emissions averaging plan must also collectively meet a NO_X emissions cap that is consistent with the one-hour ozone attainment plan for southeast Wisconsin. The use of emissions averaging plans will provide compliance flexibility for NO_X emissions sources, while ensuring that NO_X emissions are no higher than they would have been in the absence of averaging.

II. Where Can I Find More Information About This Proposal and Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules and regulations section of this **Federal Register**.

Authority: 42 U.S.C. 4201 *et seq.*

Dated: March 6, 2003.

Jerri-Anne Garl,

Acting Regional Administrator, Region 5.

[FR Doc. 03–8535 Filed 4–9–03; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7480–8]

Nebraska: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Nebraska has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Nebraska. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we receive written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by May 12, 2003.

ADDRESSES: Send written comments to Lisa V. Haugen, U.S. EPA Region 7, ARTD/RESP, 901 North 5th Street, Kansas City, Kansas. You can view and copy Nebraska's application during normal business hours at the following addresses: Nebraska Department of Environmental Quality, Suite 400, The Atrium, 1200 ''N'' Street, Lincoln, Nebraska, 68509–8922, (402) 471–2186; and EPA Region 7, Library, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551–7877, Lisa V. Haugen.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen, (913) 551–7877.