requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 33 CFR 165.T07–0995 to read as follows:

§ 165.T07–0995 Safety Zone; Beaufort River/Atlantic Intracoastal Waterway, Beaufort, SC.

(a) *Regulated Area.* The following regulated area is a safety zone: all waters of the Beaufort River in Beaufort, South Carolina encompassed within an imaginary line connecting the following points: starting at Point 1 in position 32°23′44.92″ N, 80°40′31.43″ W; thence south to Point 2 in position 32°23′30.92″ N, 80°40′30.75″ W; thence east to Point 3 in position 32°23′30.15″ N, 80°40′12.93″ W; thence north to Point 4 in position 32°23′44.22″ N, 80°40′18.68″ W; thence west to origin. All coordinates are North American Datum 1983.

(b) *Definition.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated area.

(c) *Regulations.*

(1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16 to seek authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such permission must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated area through advanced notice via broadcast notice to mariners, marine safety information bulletins, and by on-scene designated representatives.

(d) *Effective Date and Enforcement Periods.* The rule is effective from 9 a.m. on January 31, 2011 through 5 p.m. on February 4, 2011. The rule will be enforced daily from 9 a.m. until 12 p.m. and from 2 p.m. until 5 p.m. on January 31, 2011 through February 4, 2011.

Dated: January 21, 2011.

Michael F. White, Jr.,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

[FR Doc. 2011–1980 Filed 1–28–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0731; FRL–9250–6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving Wisconsin's revision to its State Implementation Plan (SIP), which updates its ambient air quality standards for fine particulates to conform with current Federal ambient air quality standards for the same criteria air pollutants. EPA received comments on its April 8, 2010, proposed rule and withdrew the accompanying Direct Final Rule. After considering the comments, EPA is approving the revisions to the Wisconsin SIP as requested by the State on September 11, 2009.

DATES: This final rule is effective on March 2, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2009–0731. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *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, Control Strategies 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 comments were received and what is the EPA response?
V. What action is EPA taking?
VI. Statutory and Executive Order Reviews

I. What is the background for this action?

On September 11, 2009, Wisconsin requested a revision to its SIP to update the particulate matter ambient air quality standards to conform with the 2006 revisions to the Federal standards.

EPA originally established National Ambient Air Quality Standards (NAAQS) for particulate matter in 1971. Particulate matter was measured in total suspended particulate (TSP). TSP is particulate up to 100 micrometers in diameter. Then in 1987, EPA changed the indicator to coarse particulate matter (PM_{10}), which is particulate up to 10 micrometers in diameter. The PM_{10} standards replaced the TSP standards. Particulate matter larger than 10 micrometers generally is not inhaled into the lungs and thus PM_{10} was found to adequately protect human health.

EPA added fine particulate matter ($PM_{2.5}$) as an indicator of particulate matter in 1997, but also retained its PM_{10} NAAQS. The finer particulate matter measured as $PM_{2.5}$ can remain suspended in the air longer and can penetrate deeply into the lungs more easily than PM_{10}, so a lower $PM_{2.5}$ concentration is needed to protect human health. Then in 2006, EPA revised its particulate matter ambient air quality standards again. EPA strengthened the 24-hour $PM_{2.5}$ standard to its current level of 35 micrograms per

meter cubed (μg/m³) and retained the annual $PM_{2.5}$ standard of 15.0 μg/m³. In 2006, EPA also revoked the annual standard for PM_{10} because available evidence did not suggest a link between long term PM_{10} exposure and health problems. The 24-hour PM_{10} NAAQS of 150 μg/m³ remains in place. Retaining the 24-hour PM_{10} standard protects against health problems linked to short-term coarse particle exposure; the annual and 24-hour $PM_{2.5}$ standards protect against long-term and short-term fine particulate exposure respectively. Having both the $PM_{2.5}$ and PM_{10} 24-hour standards protects against the effects of short-term exposure to elevated levels of fine particulate and inhalable coarse PM, particulate between 2.5 and 10 μm. There is no difference between the primary standard, which protects human health, and the secondary standard, which protects public welfare, for each PM NAAQS.

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

Wisconsin revised chapters NR 404 and 484 of the Wisconsin Administration Code to add the definition of $PM_{2.5}$ and the $PM_{2.5}$ ambient air quality standards to its rules, consistent with current Federal $PM_{2.5}$ standards. Wisconsin also removed the annual PM_{10} standard and retained the 24-hour PM_{10} standard. Thus, the Wisconsin PM_{10} standards are also consistent with the current Federal PM_{10} standards.

The revisions made by Wisconsin are in accordance with the current Federal $PM_{2.5}$ and PM_{10} standards. EPA is approving the revisions because the State's standards are at least as stringent as the Federal NAAQS for both $PM_{2.5}$ and PM_{10} and thus will adequately protect human health and public welfare. Updating the Wisconsin standards adds clarity as an outdated state standard could cause confusion. Wisconsin's $PM_{2.5}$ and PM_{10} standards are now the same as the 2006 Federal NAAQS.

III. What are the environmental effects of this action?

This action incorporates into the SIP Wisconsin's revised PM standards, which are consistent with the Federal $PM_{2.5}$ and PM_{10} ambient air quality standards, including the more stringent standard for 24-hour $PM_{2.5}$ standard. The current Federal standards are effective and enforceable nationwide.

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 comments were received and what is the EPA response?

EPA published a direct final rule accompanied by a proposed rule on April 8, 2010 (75 FR 17865 and 17894). During the comment period EPA received comments from the Wisconsin Paper Council (WPC) adverse to the proposed approval. Therefore, EPA withdrew the direct final rule on June 2, 2010 (75 FR 30710).

In its May 7, 2010 letter, the WPC opposed approval of the rule on five grounds. First, WPC asserts, "EPA's stated basis for approving WDNR's SIP submittal is not completely accurate." WPC makes this claim because EPA stated that the Wisconsin particulate matter standards now match the current Federal standards, whereas Wisconsin has retained the annual secondary TSP, which was revoked at the Federal level in 1987. EPA responds by noting that Wisconsin's submission only requested that revisions to the $PM_{2.5}$ and PM_{10} standards be incorporated into its SIP. Wisconsin never requested a revision to the TSP standard and thus EPA did not consider such a revision. EPA's April 8, 2010 **Federal Register** notice states in Section I (What is the background for this action?) that Wisconsin's request "is to update the particulate matter ambient air quality standards." The particulate matter standards were revised to match the 2006 Federal standards (75 FR 17865). There is no mention of the TSP standard, which, as stated earlier, Wisconsin did not submit to EPA for review. EPA has revised its rule summary to clearly state that the Wisconsin $PM_{2.5}$ and PM_{10} standards now match the current Federal $PM_{2.5}$ and PM_{10} standards. This makes it unmistakable that this approval applies only to the $PM_{2.5}$ and PM_{10} standards and not to the TSP standards. This revision was made only for clarification and thus the basis of the proposed approval remains valid.

Second, WPC asserts, "Wisconsin Statute section 285.21(1)(a) requires that WDNR repeal Wisconsin's particulate matter standard based on total suspended particulate as part of its request to adopt the new $PM_{2.5}$ standard," and, third, that "Wisconsin Statute section 285.21(4) also requires that WDNR repeal the Wisconsin TSP standard as part of its request to adopt the new $PM_{2.5}$ standard." These comments concern a state matter, as the requested SIP revision does not involve TSP. EPA also notes that the Wisconsin Natural Resources Board passed a resolution on May 25, 1989, that found it was necessary for Wisconsin to retain the secondary 24-hour TSP standard to protect public health and welfare in Wisconsin. Therefore, the retention of the 24-hour TSP standard is irrelevant to this approval and appears to be allowed under Wisconsin Statute section 285.21 and the May 1989 Wisconsin Natural Resources Board resolution.

WPC's fourth point is that, "EPA's approval of the September 11, 2009 SIP revision request would violate the Wisconsin SIP." A SIP is a state's collection of rules and orders designed to attain and maintain the NAAQS and Clean Air Act (CAA) requirements which are federally enforceable by EPA. There is no prohibition in the CAA, however, against a state adopting a standard or limitation into its SIP that is more stringent than the Federal standard, and EPA may enforce a state's SIP that goes beyond the Federal standard.

The final comment was, "EPA should disapprove WDNR's SIP revision request because it lacks the necessary regulatory tools to implement the $PM_{2.5}$ standard." WPC seeks test methods, emission factors, significant impact levels, and more for fine particulates. WPC states that it would be difficult for sources to limit $PM_{2.5}$ emission without such regulatory tools. EPA notes that this approval is only for $PM_{2.5}$ and PM_{10} ambient air quality standards. An ambient air quality standard does not place restrictions on emission sources by itself. Wisconsin must adopt emission control requirements to implement the $PM_{2.5}$ NAAQS, and sources will be expected to comply with the state rules once promulgated.

V. 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, to remove the annual PM_{10} standard from chapter NR 404, and added the definition of $PM_{2.5}$ and the 2006 $PM_{2.5}$ 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.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 CAA. 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 CAA; 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2011. 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. 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, Reporting and recordkeeping requirements.

Dated: December 29, 2010.

Susan Hedman,

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 revising 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 by adding fine particulate matter, $PM_{2.5}$, standards and revising the coarse particulate matter, PM_{10}, standards. Wisconsin added annual and 24-hour $PM_{2.5}$ standards. It also revoked the annual PM_{10} ambient air quality standard while retaining the 24-hour PM_{10} standard.

(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) "$PM_{2.5}$" 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_{10}: PRIMARY AND SECONDARY STANDARDS." and NR 404.04(9) "$PM_{2.5}$: 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.

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[FR Doc. 2011–2042 Filed 1–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2010–0697–201102, FRL–9259–8]

Removal of Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Alabama

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending its regulations to remove language which narrowed its previous approval of Alabama's New Source Review (NSR) Prevention of Significant Deterioration (PSD) program regarding thresholds for determining which new stationary sources and modification projects become subject to Alabama's PSD