

to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

■ 4. Amend § 541.3 in paragraph (b), Table 1, by:

■ a. Under the heading “Available Sanctions for Greatest Severity Level Prohibited Acts”, adding the entry B.2 in alphanumeric order;

■ b. Under the heading “Available Sanctions for High Severity Level Prohibited Acts”, adding the entry B.2 in alphanumeric order;

■ c. Under the heading “Available Sanctions for Moderate Severity Level Prohibited Acts”, adding the entry B.2 in alphanumeric order; and

■ d. Under the heading “Available Sanctions for Low Severity Level Prohibited Acts”, adding the entry B.2 in alphanumeric order.

The additions read as follows:

§ 541.3 Prohibited acts and available sanctions.

* * * * *
(b) * * *

TABLE 1—PROHIBITED ACTS AND AVAILABLE SANCTIONS

Available Sanctions for Greatest Severity Level Prohibited Acts	
B.2	Forfeit up to 41 days of earned First Step Act (FSA) Time Credits (see 28 CFR part 523, subpart E) for each prohibited act committed.
Available Sanctions for High Severity Level Prohibited Acts	
B.2	Forfeit up to 27 days of earned FSA Time Credits for each prohibited act committed.
Available Sanctions for Moderate Severity Level Prohibited Acts	
B.2	Forfeit up to 14 days of earned FSA Time Credits for each prohibited act committed.
Available Sanctions for Low Severity Level Prohibited Acts	
B.2	Forfeit up to 7 days of earned FSA Time Credits (only where the inmate is found to have committed a second violation of the same prohibited act within 6 months; forfeit up to 14 days of FSA Time Credits (only where the inmate is found to have committed a third violation of the same prohibited act within 6 months).

■ 5. Amend § 541.7 by revising paragraph (f) to read as follows:

§ 541.7 Unit Discipline Committee (UDC) review of the incident report.

* * * * *

(f) *Sanctions.* If you committed a prohibited act or prohibited acts, the UDC can impose any of the available sanctions in Tables 1 and 2 of § 541.3, except loss of good conduct time credit, FSA Time Credits, disciplinary segregation, or monetary fines.

[FR Doc. 2022–00918 Filed 1–14–22; 4:15 pm]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2021–0535; FRL–9444–02–R5]

Air Plan Approval; Wisconsin; Wisconsin Nonattainment New Source Review Certification for the 2015 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving, as a State Implementation Plan (SIP) revision, Wisconsin’s certification that its SIP satisfies the nonattainment new source

review (NNSR) requirements of the Clean Air Act (CAA) for the 2015 ozone National Ambient Air Quality Standard (NAAQS).

DATES: This direct final rule will be effective March 21, 2022, unless EPA receives adverse comments by February 18, 2022. 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–2021–0535 at <http://www.regulations.gov> or via email to damico.genevieve@epa.gov. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted,

comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on

making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Rachel Rineheart, Environmental Engineer, Air Permit Section, Air Programs Branch (AR18), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-7017, rineheart.rachel@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

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

I. What is EPA’s evaluation of Wisconsin’s submittal?

A. Background

On July 27, 2021, Wisconsin submitted a SIP revision requesting that

EPA approve Wisconsin’s certification that its existing SIP-approved NNSR regulations fully satisfy the NNSR requirements set forth in 40 CFR 51.165 for all areas not attaining the 2015 Ozone NAAQS. Wisconsin has certified that specific sections of its NNSR rules at NR 408 continue to meet the NNSR requirements for ozone nonattainment areas under the 2015 ozone NAAQS. Table 1 below provides the sections of Wisconsin’s NNSR rule corresponding to the relevant requirements at 40 CFR 51.165. NR 408 was originally approved into the SIP effective February 17, 1995,¹ with revisions subsequently approved into the SIP effective January 16, 2009.² Each requirement identified in Wisconsin’s certification has not been revised since EPA last approved it. Table 1 lists the specific provisions of Wisconsin’s NNSR rules that address the required elements of the Federal NNSR rules:

TABLE 1—REQUIRED ELEMENTS

Federal rule	Wisconsin rule
40 CFR 51.165(a)(1)(iv)(A)(1)(i)–(iv)	NR 408.02(21), NR 408.02(21)(a)(1)(b), (c), (d), and (e).
40 CFR 51.165(a)(1)(iv)(A)(2)	NR 408.02(21)(b), NR 408.02(21)(b)(1)(a)–(c), and NR 408.02(21)(b)(2)–(4).
40 CFR 51.165(a)(1)(iv)(A)(3)	NR 408.02(21)(a)(3).
40 CFR 51.165(a)(1)(v)(E)	NR 408.02(20)(c).
40 CFR 51.165(a)(1)(v)(F)	NR 408.02(20)(a).
40 CFR 51.165(a)(1)(x)(A)	NR 408.02(32)(a) and NR 408.02(32)(a)(6).
40 CFR 51.165(a)(1)(x)(B)	NR 408.02(32)(c).
40 CFR 51.165(a)(1)(x)(C)	NR 408.02(32)(f) and NR 408.03(5).
40 CFR 51.165(a)(1)(x)(E)	NR 408.02(32)(d).
40 CFR 51.165(a)(3)(ii)(C)(1)	NR 408.06(7)(a), NR 408.06(7)(a)(1), and NR 408.06(7)(a)(4).
40 CFR 51.165(a)(3)(ii)(C)(2)	NR 408.06(7)(b).
40 CFR 51.165(a)(8)	NR 408.03(5).
40 CFR 51.165(a)(9)(ii)–(iv)	NR 408.06(4)(a)–(e), NR 408.06(5), and NR 408.05(2)(b).

B. Analysis of Wisconsin’s NNSR Rules

For the following reasons, we are approving Wisconsin’s certification that NR 408 is consistent with 40 CFR 51.165 and meets the requirements of CAA sections 110(a)(2), 172(c)(5), 173, 182(a)(4), and 182(b)(5) under the 2015 ozone standard.

1. Major Source Thresholds for Ozone—40 CFR 51.165(a)(1)(iv)(A)(1)(i)–(iv) and (2)

The major source thresholds for both volatile organic compounds (VOC) and nitrogen oxides (NO_x) (*i.e.*, ozone precursors) are defined in 40 CFR 51.165(a)(1)(iv)(A)(1)(i)–(iv) and (2). The applicable thresholds vary depending on the classification of the ozone nonattainment area. Different emissions thresholds apply for Marginal,

Moderate, Serious, Severe and Extreme ozone nonattainment areas and for areas located in an ozone transport region (OTR).

Wisconsin has certified that the Federal requirements for major source thresholds for VOC and NO_x are addressed by NR 408.02(21). Under NR 408.02(21)(a), for an area designated as nonattainment for ozone, a major stationary source is a stationary source which emits or has the potential to emit VOC in an amount equal to or greater than (1) 100 tons per year in an area classified as marginal or moderate nonattainment for ozone (NR 408.02(21)(a)(1)); (2) 50 tons per year of VOC in an area designated as serious nonattainment for ozone (NR 408.02(21)(a)(1)(b)); (3) 25 tons per year of VOC in an area designated as severe

for ozone (NR 408.02(21)(a)(1)(d)); and (4) 10 tons per year of VOC in an area designated as extreme for ozone (NR 408.02(21)(a)(1)(e)). Under NR 408.02(21)(b), for an area designated as nonattainment for ozone, a major stationary source is a stationary source which emits or has the potential to emit NO_x in an amount equal to or greater than (1) 100 tons per year in an area classified as marginal or moderate nonattainment for ozone (NR 408.02(21)(b)(1)(a)); (2) 50 tons per year in an area classified as serious nonattainment for ozone (NR 408.02(21)(b)(2)); (3) 25 tons per year in an area classified as severe nonattainment for ozone (NR 408.02(21)(b)(3)); and (4) 10 tons per year in an area classified as extreme

¹ See 60 FR 3538.

² See 73 FR 76560.

nonattainment for ozone (NR 408.02(21)(b)(4)).

Wisconsin's thresholds are consistent with the Federal thresholds; therefore, we find that Wisconsin's NNSR provisions at NR 408.02(21) satisfy the requirements of 40 CFR 51.165(a)(1)(iv)(A)(1)(i)–(iv) and (2).

2. Change Constitutes Major Source by Itself—40 CFR 51.165(a)(1)(iv)(A)(3)

Under 40 CFR 51.165(a)(1)(iv)(A)(3), any physical change that would occur at a stationary source not qualifying as a major stationary source becomes a major stationary source if the change would constitute a major stationary source by itself. Wisconsin has certified that the requirement is addressed by NR 408.02(21)(a)(3) which states that a major source includes any physical change that would occur at a stationary source not qualifying under subd. 1. or 2. as a major source, if the change would constitute a major source by itself. Wisconsin's provisions are consistent with Federal provisions; therefore, we find that the Wisconsin SIP at NR 408.02(21)(a)(3) satisfies the requirements of 40 CFR 51.165(a)(1)(iv)(A)(3).

3. Significant Net Emissions Increase of NO_x

Under 40 CFR 51.165(a)(1)(v)(E), any significant net emissions increase of NO_x is considered significant for ozone. Wisconsin has certified that this requirement is addressed by NR 408.02(20)(c), which provides that any significant net emissions increase of NO_x is considered significant for ozone in addition to any separate requirements for nitrogen oxides. Wisconsin's provisions at NR 408.02(20)(c) are consistent with the Federal requirements at 40 CFR 51.165(a)(1)(v)(E); therefore, we find that NR 408.02(20)(c) satisfies the requirements of 40 CFR 51.165(a)(1)(v)(E).

4. Any Emissions Change in an Extreme Area Triggers NNSR—40 CFR 51.165(a)(1)(v)(F)

Under 40 CFR 51.165(a)(1)(v)(F), any physical change in, or change in the method of operation of, a major stationary source of VOC that results in any increase in emissions of VOC from any discrete operation, emissions unit, or other pollutant emitting activity at the source shall be considered a significant net emissions increase and a major modification for ozone, if the major stationary source is located in an extreme ozone nonattainment area that is subject to CAA title 1, part D, subpart 2. Wisconsin has certified that this

requirement is addressed by NR 408.02(20)(a). NR 408.02(20)(a) provides that any physical change, or change in the method of operation of a major source of VOCs located in an extreme nonattainment area for ozone which results in any increase in emissions of VOCs from any discrete operation, emissions unit or other pollutant emitting activity at the source shall be considered a major modification for ozone. Wisconsin's provision at NR 408.02(20)(a) is consistent with the Federal requirements of 40 CFR 51.165(a)(1)(v)(F); therefore, we find that NR 408.02(20)(a) satisfies the requirements of 40 CFR 51.165(a)(1)(v)(F).³

5. Significant Emission Rates for VOC and NO_x

Under 40 CFR 51.165(a)(1)(x)(A), (B) and (E), the significant emission rate for ozone is 40 tons per year of VOC or NO_x, except that the significant emission rate in serious or severe nonattainment areas shall be 25 tons per year. Under 40 CFR 51.165(a)(1)(x)(E), any increase in actual emissions of VOC from any emissions unit at a major stationary source of VOC located in an extreme ozone nonattainment area shall be considered a significant net emissions increase.

Wisconsin has certified that NR 408.02(32)(a), (c), (d) and (f) satisfy these requirements. NR 408.02(32)(a) defines significant emission rates for NO_x of 40 tons per year and for ozone of 40 tons per year of VOC. NR 408.02(32)(c) defines significant for serious and severe ozone nonattainment areas as 25 tons per year of VOC. NR 408.02(32)(d) states that any increase in VOC emissions at a major source of VOC in an extreme ozone nonattainment area is considered significant. NR 408.02(32)(f) states that for purposes of applying NR 408.03(5) (major NSR applicability) to major sources of NO_x located in ozone nonattainment areas, the significant emission rates and other requirements for VOC shall apply to NO_x emissions. These provisions satisfy the requirements of 40 CFR 51.165(a)(1)(x)(A)–(C) and (E) with respect to VOC emissions. While the significant emission rate for ozone in NR 408.02(32)(a) does not specifically include NO_x, Wisconsin has certified that other provisions ensure NO_x would also be subject to the 40 tons per year significance rate for ozone. NR 408.03(2) provides that the NNSR requirements shall apply to any new source or major modification that is major for the

pollutant, or precursor of the pollutant, for which the area is designated as nonattainment. Therefore, a major modification of NO_x in an ozone nonattainment area would trigger NNSR requirements for ozone. EPA finds that NR 408.02(32)(a), (c), (d) and (f) in conjunction with NR 408.03(2) satisfy the requirements of 40 CFR 51.165(a)(1)(x)(A)–(C) and (E).

6. Provisions for Emissions Reduction Credits—40 CFR 51.165(a)(3)(ii)(C)(1)–(2)

Under 40 CFR 51.165(a)(3)(ii)(C)(1) and (2), to be considered creditable, emission reductions achieved by shutting down an existing emission unit or curtailing production or operating hours must be surplus, permanent, quantifiable, and federally enforceable. Shutdowns or curtailments must have occurred after the last day of the base year for the SIP planning process. Reviewing authorities may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes emissions from the previously shutdown or curtailed emissions units, but in no event may credit be granted for shutdowns that occurred prior to August 7, 1977. Shutdown or curtailment reductions occurring before the last day of the base year for the SIP planning process may also be generally credited if the shutdown or curtailment occurred on or after the date the construction permit application is filed or if the applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emission unit and the emission reductions that result are surplus, permanent, quantifiable, and federally enforceable. Wisconsin certified that the requirements of NR 408.06(7)(a), NR 408.06(7)(a)(1), NR 408.06(7)(a)(4), and NR 408.06(7)(b) satisfy these requirements.

NR 408.06(7)(a) states that emissions reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels may be generally credited if (1) The reductions are surplus, permanent, quantifiable and federally enforceable . . . (4) The shutdown or curtailment occurs on or after the date specified for this purpose in the state implementation plan, and if the date specified is on or after the date of the most recent emissions inventory used in the plan's demonstration of attainment. The Wisconsin Department of Natural Resources (WDNR) may consider a prior shutdown or

³ Wisconsin does not currently have any extreme ozone nonattainment areas.

curtailment to have occurred after the date of its most recent emissions inventory, if the inventory explicitly includes as current existing emissions the emissions from the previously shut down or curtailed sources. However, no credit is available for shutdowns which occurred prior to August 7, 1977. NR 408.06(7)(b) states that the emission reductions described in par. (a) may be credited in the absence of an EPA approved SIP only if the shutdown or curtailment occurs on or after the date the construction permit application is filed or if the applicant can establish that the proposed new source is a replacement for the shut down or curtailed source, and the cutoff date provisions of par. (a)4. are observed. EPA finds these provisions to be consistent with the Federal requirements; therefore, we find that the provisions of NR 408.06(7)(a), NR 408.06(7)(a)(1), NR 408.06(7)(a)(4) and NR 408.06(7)(b) satisfy the requirements of 40 CFR 51.165(a)(3)(ii)(C)(1) and (2).

7. Requirements for VOC Apply to NO_x

Under 40 CFR 51.165(a)(8), all requirements applicable to major stationary sources and major modifications of VOC shall apply to NO_x except where the Administrator has granted a NO_x waiver applying the standards set forth under CAA section 182(f) and the waiver continues to apply. Wisconsin has certified that these Federal requirements are satisfied by NR 408.03(5). NR 408.03(5) states the requirements of sections NR 408.04 to 408.10 applicable to new major sources or major modifications of VOC shall apply to NO_x emissions from new major sources or major modifications of NO_x, except that the requirements do not apply if the Administrator determines, when the Administrator approves a plan, plan revision or petition under provisions of section 182(f) of the CAA, that the statutory requirements of section 182(f) do not apply. We find that NR 408.03(5) is consistent with the requirements of 40 CFR 51.165(a)(8); therefore, we find that the Wisconsin SIP satisfies the requirements of 40 CFR 51.165(a)(8).

8. Offset Ratios for VOC and NO_x

Under 40 CFR 51.165(a)(9)(ii)(A)–(E), the VOC offset ratios shall be 1.1:1 in marginal ozone nonattainment areas, 1.15:1 in moderate ozone nonattainment areas, 1.2:1 in serious ozone nonattainment areas, and 1.3:1 in severe ozone nonattainment areas, and 1.5:1 in extreme ozone nonattainment areas. NR 408.06(4) states that in meeting the requirements of sub. (3) for ozone nonattainment areas classified under

section 182 of the CAA, the ratio of total actual emission reductions of VOCs, and NO_x, where applicable, to the net emissions increase for the same air contaminant class shall be as follows:

(a) In any rural transport or marginal nonattainment area for ozone: At least 1.1 to 1.

(b) In any moderate nonattainment area for ozone: At least 1.15 to 1.

(c) In any serious nonattainment area for ozone: At least 1.2 to 1.

(d) In any severe nonattainment area for ozone: At least 1.3 to 1.

(e) In any extreme nonattainment area for ozone: At least 1.5 to 1.

The offset ratios for both VOC and NO_x are consistent with 40 CFR 51.165(a)(9)(ii)(A)–(E); therefore, we find that the requirements of NR 408.06(4) satisfy the requirements of 40 CFR 51.165(a)(9)(ii)(A)–(E).

40 CFR 51.165(a)(9)(iv) requires, for ozone nonattainment areas subject to CAA title 1, part D, subpart 1 but not subpart 2, an offset ratio of at least 1:1. All of the current ozone nonattainment areas in Wisconsin were designated pursuant to CAA title 1, part D, subpart 2, and so this requirement does not apply to Wisconsin at this time.

9. OTR Requirements

Wisconsin is not located in an OTR, and has certified as such. Wisconsin is not required to include the OTR provisions set forth in 40 CFR 51.165(a)(1)(iv)(A)(1)(ii), 40 CFR 51.165(a)(1)(iv)(A)(2)(ii), 40 CFR 51.165(a)(1)(v)(E), 40 CFR 51.165(a)(1)(x)(C), 40 CFR 51.165(a)(8), and 40 CFR 51.165(a)(9)(iii) in the SIP until such time that EPA publishes rules that establish Wisconsin as part of the OTR.

10. Anti-Backsliding Provisions—40 CFR 51.165(a)(12)

Anti-backsliding provisions are designed to ensure that for existing ozone nonattainment areas that are designated nonattainment for a revised and more stringent ozone NAAQS, (1) there is protection against degradation of air quality (*i.e.*, the areas do not “backslide”), (2) the areas continue to make progress toward attainment of the new, more stringent NAAQS, and (3) there is consistency with the ozone NAAQS implementation framework outlined in CAA title 1, part D, subpart 2. *See* 78 FR 34211 (June 6, 2013). As part of the SIP Requirements Rule, EPA revoked the 1997 NAAQS for all purposes and established anti-backsliding requirements for areas that remained designated nonattainment for the revoked NAAQS. *See* 80 FR 12265 (March 6, 2015) and 40 CFR

51.165(a)(12). Under 40 CFR 51.165(a)(12), the anti-backsliding requirements at 40 CFR 51.1105 apply in any area designated nonattainment for the 2008 ozone NAAQS and designated nonattainment for the 1997 ozone NAAQS on April 6, 2015. The anti-backsliding requirements apply to Sheboygan County, which was designated as a moderate ozone nonattainment area for the 1997 ozone NAAQS. Anti-backsliding requirements are addressed in documents issued by the WDNR pursuant to state statute 285.23(2), and are included as part of a separate SIP action.

II. What action is EPA taking?

EPA is approving Wisconsin’s July 27, 2021, SIP revision addressing the NNSR requirements of the 2015 ozone NAAQS. EPA has concluded that Wisconsin’s submission fulfills the 40 CFR 51.1314 revision requirement, meets the requirements of CAA sections 110 and 172 and the minimum SIP requirements of 40 CFR 51.165. 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 March 21, 2022 without further notice unless we receive relevant adverse written comments by February 18, 2022. 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. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective March 21, 2022.

III. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 March 21, 2022. 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 this **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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 12, 2022.

Debra Shore,

Regional Administrator, Region 5.

For the reasons stated in the preamble, EPA amends title 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Section 52.2585 is amended by adding paragraph (pp) to read as follows:

§ 52.2585 Control Strategy: Ozone.

* * * * *

(pp) *NNSR certification*. Approval— On July 27, 2021, Wisconsin submitted a SIP revision certifying that the existing SIP-approved nonattainment new source review regulations fully satisfy the nonattainment new source review requirements for all areas not attaining the 2015 Ozone NAAQS.

[FR Doc. 2022-00935 Filed 1-18-22; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2020-0554; FRL-9297-01-R3]

Approval and Promulgation of Air Quality Implementation Plan; Delaware; Emissions Statement Certification for the 2015 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision formally submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC). The revision provides Delaware’s certification that its existing emissions statement program satisfies the emissions statement requirements of the Clean Air Act (CAA) for the 2015 ozone national ambient air quality standard (NAAQS). EPA is approving Delaware’s emissions statement program certification for the 2015 ozone NAAQS as a SIP revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on February 18, 2022.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2020-0554. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *e.g.*, 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 through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.