§ 1.203 Information to be reported to VA Police.

Information about actual or possible violations of criminal laws related to VA programs, operations, facilities, or involving VA employees, where the violation of criminal law occurs on VA premises, will be reported by VA management officials to the VA police component with responsibility for the VA station or facility in question. If there is no VA police component with jurisdiction over the offense, the information will be reported to Federal, state or local law enforcement officials, as appropriate.

(Authority: 38 U.S.C. 902)

§ 1.204 Information to be reported to the Office of Inspector General.

Criminal matters involving felonies will also be immediately referred to the Office of Inspector General, Office of Investigations. VA management officials with information about possible criminal matters involving felonies will ensure and be responsible for prompt referrals to the OIG. Examples of felonies include but are not limited to, theft of Government property over $1000, false claims, false statements, drug offenses, crimes involving information technology systems and serious crimes against the person, *i.e.*, homicides, armed robbery, rape, aggravated assault and serious physical abuse of a VA patient.

(Authority: 5 U.S.C. App. 3)

§ 1.205 Notification to the Attorney General or United States Attorney's Office.

VA police and/or the OIG, whichever has primary responsibility within VA for investigation of the offense in question, will be responsible for notifying the appropriate United States Attorney's Office, pursuant to 28 U.S.C. 535.

(Authority: 5 U.S.C. App. 3, 38 U.S.C. 902)

PART 14—LEGAL SERVICES, GENERAL COUNSEL, AND MISCELLANEOUS CLAIMS

■ 3. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 2671–2680; 38 U.S.C. 501(a), 512, 515, 5502, 5902–5905; 28 CFR part 14, appendix to part 14, unless otherwise noted.

§ 14.560 [Amended]

■ 4. In § 14.560, remove paragraphs (a) and (b); and remove the designation (c) from paragraph (c).

§ 14.563 [Removed]

■ 5. Section 14.563 is removed.

PART 17—MEDICAL

■ 6. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

§ 17.170 [Amended]

■ 7. Section 17.170, paragraph (c), first sentence, remove ''appropriate Regional Counsel'' and add, in its place, ''Office of Inspector General''; and in the second sentence, remove ''Regional Counsel'' and add, in its place, ''Office of Inspector General''.

[FR Doc. 03–8723 Filed 4–9–03; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI–113–7343A; FRL–7466–6]

Approval and Promulgation of State Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving 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.

DATES: This direct final rule is effective on June 9, 2003 without further notice unless EPA receives adverse written comments by May 12, 2003. If we receive adverse comment, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

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?

EPA is approving, 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 (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 sources would be assessed collectively. Participating sources would need to submit such plans to the Wisconsin Department of Natural Resources (WDNR) at least 90 days prior to the start of the ozone season, and would need to identify the participating units, their owners or operators, applicable emissions limitations, projected heat input and emissions rate, and projected mass emissions for the ozone season. The plan would establish an aggregate ozone season emissions rate limit for participating units through a formula that sums allowable emissions for each unit (based on projected heat input and each source's individual emissions rate), and divides it by the total projected heat input. To provide an environmental benefit from averaging, the formula subtracts 0.01 pounds/mmbtu from each unit's allowable emissions.

Plan Emission Rate = {Sum [Projected Unit Heat Input x (Unit Emission Rate Limit—0.01)}/(Sum of Projected Unit Heat Inputs)

As a result, total emissions under an averaging plan would be lower than they would be if each unit demonstrated compliance on an individual basis. However, individual units would be allowed to exceed emissions rates specified in the NO_X reduction rules, while other units would emit less than

allowed under the rules. Thus, averaging allows companies to minimize the cost of emissions reductions by allocating reductions at the units that can achieve them most inexpensively.

In addition, units participating in an averaging plan are subject to a mass emission limitation, beginning with the 2008 ozone season. This feature of the program ''caps'' the aggregate ozone season NO_X emissions of participating sources at a level that could not be exceeded regardless of heat input. This level is determined by the participating units' share of actual heat input during the 1995, 1996 and 1997 ozone seasons, multiplied by 15,912 tons, an amount consistent with the state's one-hour ozone attainment demonstration.

Within 60 days of the end of each ozone season, owners or operators of the participating units must submit compliance reports demonstrating compliance with the plan's emission rate and mass emission limit.

II. What Is EPA's Evaluation of This Program?

EPA has determined that this SIP revision will not interfere with reasonable further progress or with attainment or maintenance of the National Ambient Air Quality Standards or any other requirement of the Clean Air Act. Emissions averaging programs are considered a type of economic incentive program. EPA's guidance on such programs is ''Improving Air Quality with Economic Incentive Programs,'' EPA–452/R–01–001, January 2001 (the EIP guidance).

Wisconsin's NO_X averaging program conforms with the EIP guidance, with one notable exception. The EIP guidance indicates that averaging should take place only among units that are under common ownership or control. This provision of the guidance is motivated by the concern that compliance and enforcement difficulties might result from averaging among sources under different ownership or control. Compliance in averaging programs depends not only on the emissions rates of the various sources, but also on the activity level (heat input) of higher-emitting sources relative to lower-emitting sources. Since activity levels are subject to constant change and are difficult to project, it could therefore be difficult for an averaging plan involving units under different ownership or control to ensure that compliance is maintained. It could be particularly difficult to maintain compliance if owners of units projected to have lower emissions rates projected higher activity levels than could actually be maintained.

Wisconsin's NO_X averaging program allows averaging among sources that are not under common ownership or control. Nonetheless, EPA is approving Wisconsin's program, for several reasons. Most important, beginning in 2008, Wisconsin's program includes an enforceable emissions cap in addition to emissions averaging. The cap is set at a level consistent with the one-hour ozone attainment plan for the Milwaukee-Racine area, and ensures that emissions cannot increase beyond levels consistent with attainment, regardless of changes in emissions rates.

In addition, EPA finds that the operation of an averaging program with averaging across ownership will be of minimal risk in the individual case of Wisconsin's program. This program involves a limited number of existing sources, and new sources cannot use emissions averaging. Therefore, the State will receive only a small number of averaging plans, and it will be well able to review such plans ahead of time to ensure that projected activity levels are reasonable. Moreover, the sources that are potential participants in Wisconsin's averaging program all operate at levels close to capacity, and therefore have limited ability to project significant increases in activity levels. Therefore, EPA anticipates no problems resulting of averaging across sources under different ownership; nonetheless, EPA will evaluate as the program operates whether averaging across units under different ownership creates compliance problems or interferes with the achievement of expected reductions.

Other provisions of Wisconsin's program include:

- Excess emission reductions used in an averaging program must be reductions beyond those needed to meet all other state and federal requirements;
- Emissions averaging will create an environmental benefit, since in calculating the aggregate allowable emission rate, the allowable emission rate of each source is reduced by 0.01 pounds per million btu;
- If either the aggregate allowable emission rate or the mass ozone season cap is violated, each unit participating in the averaging plan is considered out of compliance for each day of non-compliance, and is potentially subject to penalties for each day of non-compliance;
- NO_X reductions used in an emissions averaging plan cannot be used for compliance with emissions limits established under the new source review or prevention of significant deterioration program, or with the NO_X reduction requirements of the acid rain program;
- If the mass ozone season cap for an averaging plan is violated, WDNR can require additional emissions reductions from participating units;
- Emissions must be measured using continuous monitoring equipment;
- WDNR will have the opportunity to review emissions averaging plans to determine their completeness prior to the beginning of the ozone season. Averaging plans must be submitted to WDNR 90 days prior to the beginning of the ozone season, and WDNR has 30 days to determine whether additional information is needed;
- The public will be kept informed of potential changes in emissions caused by emissions averaging; operators of units involved in an emissions averaging plan are required to provide public notice at least 60 days prior to the start of the ozone season, and to provide copies of the plan to the public upon request.

In addition to the NO_X averaging and emission cap provisions, EPA is approving a new categorical emission limit for new integrated gasification combined cycle units. WDNR created this limit because these sources will not be able to comply with the limit for natural gas-fired units that would otherwise apply. While this new limit is higher than the natural gas-fired limit, these types of sources will be taking the place of higher emitting coal-fired units and will, therefore, not affect emissions projections made earlier by the WDNR, which included growth of coal-fired units. The approval of this new limit will have no impact on the Wisconsin one-hour ozone attainment demonstration SIP.

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state regulations as meeting federal requirements and imposes no additional requirements beyond those imposed by state regulations. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose

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

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air 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 Clean Air Act. Therefore, 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 rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

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 9, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen oxides, Reporting and recordkeeping requirements.

Dated: March 6, 2003.

Jerri-Anne Garl,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart YY—Wisconsin

■ 2. Section 52.2570 is amended by adding paragraph (c)(108), to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(108) On December 16, 2002, Lloyd L. Eagan, Director, Wisconsin Department of Natural Resources, submitted revised rules to allow use of NO_X emissions averaging for sources subject to NO_X emission limits in the Milwaukee-Racine area. The revised rules also establish a NO_X emissions cap for sources that participate in emissions averaging, consistent with the emissions modeled in Wisconsin's approved one-hour ozone attainment demonstration for the Milwaukee-Racine area. The rule revision also creates a new categorical emissions limit for new integrated gasification combined cycle units.

(i) Incorporation by reference.

(A) NR 428.02(6m) as published in the (Wisconsin) Register, November 2002, No. 563 and effective December 1, 2002.

(B) NR 428.04(2)(g)(3) as published in the (Wisconsin) Register, November 2002, No. 563 and effective December 1, 2002.

(C) NR 428.06 as published in the (Wisconsin) Register, November 2002, No. 563 and effective December 1, 2002.

[FR Doc. 03–8536 Filed 4–9–03; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7480–9]

Nebraska: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final 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 has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Nebraska's changes to its hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on June 9, 2003 unless EPA receives adverse written comment by May 12, 2003. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.