

mixed with copper giving the objects a slightly reddish appearance.

IV. Shell

Natural shell pierced for stringing in necklaces.

Inapplicability of Notice and Delayed Effective Date

Because the amendment to the Customs Regulations contained in this document imposing import restrictions on the above-listed cultural property of Nicaragua is being made in response to a bilateral agreement entered into in furtherance of the foreign affairs interests of the United States, pursuant to section 553(a)(1) of the Administrative Procedure Act, (5 U.S.C. 553(a)(1)), no notice of proposed rulemaking or public procedure is necessary. For the same reason, a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This amendment does not meet the criteria of a "significant regulatory action" as described in E.O. 12866.

Drafting Information

The principal author of this document was Bill Conrad, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 12

Customs duties and inspections, Imports, Cultural property.

Amendment to the Regulations

Accordingly, part 12 of the Customs Regulations (19 CFR part 12) is amended as set forth below:

PART 12—[AMENDED]

1. The general authority and specific authority citations for part 12, in part, continue to read as follows:

**Authority:** 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

\* \* \* \* \*  
Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;  
\* \* \* \* \*

§ 12.104g [Amended]

2. In § 12.104g, paragraph (a), the table is amended by adding Nicaragua in appropriate alphabetical order as follows:

| State     | Cultural property   | T.D. No.   |
|-----------|---|------------|
| Nicaragua | Archaeological Material of pre-Columbian cultures ranging approximately from 8000 B.C. to 1500 A.D. | T.D. 00-75 |

\* \* \* \* \*  
**Raymond W. Kelly,**  
*Commissioner of Customs.*  
Approved: September 8, 2000.  
**John P. Simpson,**  
*Deputy Assistant Secretary of the Treasury.*  
[FR Doc. 00-27593 Filed 10-25-00; 8:45 am]  
BILLING CODE 4820-02-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI99-01-733a, FRL-6891-3]

Approval and Promulgation of Maintenance Plan Revisions; Wisconsin

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a September 8, 2000, request from Wisconsin for a State Implementation Plan (SIP) revision of the Walworth County ozone maintenance plan. The maintenance plan revision establishes a new

transportation conformity Mobile Vehicle Emissions Budget (MVEB) for the year 2007. EPA is approving the allocation of a portion of the safety margin for Volatile Organic Compounds (VOC) to the area's 2007 MVEB for transportation conformity purposes. This allocation will still maintain the total emissions for the area at or below the attainment level required by the transportation conformity regulations. The transportation conformity budget for oxides of nitrogen (NO<sub>x</sub>) will remain the same as previously approved in the maintenance plan.

**DATES:** This rule is effective on December 26, 2000, unless EPA receives adverse written comments by November 27, 2000. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Send written comments to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of the documents relevant to this action during

normal business hours at the following location: Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Michael Leslie at (312) 353-6680 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Michael G. Leslie, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-6680.

**SUPPLEMENTARY INFORMATION:** This Supplementary Information section is organized as follows:

What Action Is EPA Taking Today?  
Who Is Affected by This Action?  
How Did the State Support This Request?  
What Is Transportation Conformity?  
What Is an Emissions Budget?  
What Is a Safety Margin?  
How Does This Action Change the Walworth County Ozone Maintenance Plan?  
Why Is the Request Approvable?  
EPA Action  
Administrative Requirements

What Action Is EPA Taking Today?

EPA is approving a revision to the ozone maintenance plan for Walworth

County, Wisconsin. The revision will change the MVEB for VOC that is used for transportation conformity purposes. The revision will keep the total emissions for the area at or below the attainment level required by law. This action will allow State or local agencies to maintain air quality while providing for transportation growth.

#### Who Is Affected by This Action?

Primarily, this revision will affect the transportation sector represented by Southeastern Wisconsin Regional Planning Commission, the Wisconsin Department of Transportation and persons needing to travel through Walworth County. The conformity rule, provides that if a "safety margin" exists in the maintenance plan, then the safety margin can be allocated to the transportation sector via the mobile source budget.

#### How Did the State Support This Request?

On September 8, 2000, Wisconsin submitted to EPA a SIP revision request for the Walworth County ozone maintenance area. The Wisconsin Department of Natural Resources (WDNR) held a public hearing on this proposal on August 15, 2000. No one from the public commented on the proposed revisions.

In the submittal, Wisconsin requested to establish a new 2007 MVEB for VOC for the Walworth County, Wisconsin, ozone maintenance area. The State requested that 0.5 tons per day of VOC be allocated from the maintenance plan's safety margin. The MVEB are used for transportation conformity purposes.

#### What Is Transportation Conformity?

Transportation conformity means that the level of emissions from the transportation sector (cars, trucks and buses) must be consistent with the requirements in the SIP to attain and maintain the air quality standards. The Clean Air Act, in section 176(c), requires conformity of transportation plans, programs and projects to an implementation plan's purpose of attaining and maintaining the National Ambient Air Quality Standards. On November 24, 1993, EPA published a final rule establishing criteria and procedures for determining whether transportation plans, programs and projects funded or approved under Title 23 U.S.C. or the Federal Transit Act conform to the SIP.

The transportation conformity rules require an ozone maintenance area, such as Walworth County, to compare the actual projected emissions from

cars, trucks and buses on the highway network, to the MVEB established by a maintenance plan. The Walworth County area has an approved ozone maintenance plan. Our approval of the maintenance plan established the MVEB for transportation conformity purposes.

#### What Is an Emissions Budget?

An emissions budget is the projected level of controlled emissions from the transportation sector (mobile sources) that is estimated in the SIP. The SIP controls emissions through regulations, for example, on fuels and exhaust levels for cars. The emissions budget concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the emissions budget. The transportation conformity rule allows changing the MVEB as long as the total level of emissions from all sources remains below the attainment level.

#### What Is a Safety Margin?

A "safety margin" is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the air quality health standard. For example: Walworth County was monitoring attainment of the one hour ozone standard during the 1992–1994 time period. The State used 1993 as the attainment level of emissions for Walworth County. The emissions from point, area and mobile sources in 1993 equaled 18.77 tons per day of VOC and 12.88 tons per day of NO<sub>x</sub>. The Wisconsin Department of Natural Resources (WDNR) projected emissions out to the year 2007 and projected a total of 17.16 tons per day of VOC and 11.49 tons per day of NO<sub>x</sub> from all sources in Walworth County. The safety margin for Walworth County is the difference between these amounts, or 1.61 tons per day of VOC and 1.39 tons per day of NO<sub>x</sub>. Tables 1 and 2 give detailed information on the estimated emissions from each source category and the safety margin calculation.

The 2007 emission projections reflect the point, area and mobile source reductions and are illustrated in Tables 1 and 2.

TABLE 1.—WALWORTH COUNTY VOC EMISSIONS BUDGET

| Source category    | 1993  | 2007  |
|--------------------|-------|-------|
| Point .....        | 1.55  | 1.79  |
| Area .....         | 7.63  | 7.37  |
| On-Road Mobile ... | 5.53  | 4.89  |
| Non-Road Mobile .. | 4.06  | 3.11  |
| Total .....        | 18.77 | 17.16 |

Safety Margin = 1993 total emissions  
– 2007 total emissions = 1.61 tons/day  
VOC

TABLE 2.—WALWORTH COUNTY NO<sub>x</sub> EMISSIONS BUDGET

| Source category    | 1993  | 2007  |
|--------------------|-------|-------|
| Point .....        | 0.55  | 0.64  |
| Area .....         | 0.73  | 0.66  |
| On-Road Mobile ... | 7.86  | 7.20  |
| Non-Road Mobile .. | 3.74  | 2.99  |
| Total .....        | 12.88 | 11.49 |

Safety Margin = 1990 total emissions  
– 2007 total emissions = 1.39 tons/day  
NO<sub>x</sub>

The emissions are projected to maintain the area's air quality consistent with the air quality health standard. Wisconsin requests that only a portion of the safety margin credit be allocated to the transportation sector. The total emission level, even with this allocation will be below the attainment level or safety level and thus is acceptable.

#### How Does This Action Change the Walworth County Ozone Maintenance Plan?

It raises the VOC emissions for the MVEB. The maintenance plan is designed to provide for future growth while still maintaining the ozone air quality standard. Growth in industries, population, and traffic is offset with reductions from cleaner cars and other emission reduction programs. Through the maintenance plan the State and local agencies can manage and maintain air quality while providing for growth.

In the submittal, Wisconsin requested to allocate part of the area's safety margin to the MVEB. The Walworth County area's safety margin is the difference between the 1993 attainment inventory year and the 2007 projected emissions inventory (1.61 tons/day VOC safety margin, and 1.39 tons/day NO<sub>x</sub> safety margin) as shown in Tables 1 and 2. The SIP revision requests the allocation of 0.5 tons/day VOC into the area's MVEB from the safety margin. The 2007 VOC MVEB budget showing the safety margin allocations that will be

used for transportation conformity purposes is outlined in Table 3.

Table 3 below illustrates that the requested portion of the safety margin can be allocated to the 2007 mobile source budget and that total emissions will still remain at or below the 1993 attainment level of total emissions for the Walworth County maintenance area. Since the area would still be at or below the 1993 attainment level for the total emissions, the conformity rule allows this allocation. The NO<sub>x</sub> budget and safety margin will remain the same.

TABLE 3.—ALLOCATION OF SAFETY MARGIN TO THE 2007 MVEB, WALWORTH COUNTY VOC EMISSIONS

| [tons/day]            |       |
|-----------------------|-------|
| Source category       | 2007  |
| Point .....           | 1.79  |
| Area .....            | 7.37  |
| On-Road Mobile .....  | 5.39  |
| Non-Road Mobile ..... | 3.11  |
| Total .....           | 17.66 |

Remaining Safety Margin = 1990 total emissions – 2007 total emissions = 1.11 tons/day VOC

#### Why Is the Request Approvable?

The requested allocation of the safety margin for the Walworth County area is approvable because the new MVEB for VOC maintains the total emissions for the area at or below the attainment year inventory level as required by the transportation conformity regulations. The conformity rule allows this allocation because the area would still be at or below the 1993 attainment level for the total emissions.

#### EPA Action

EPA is approving the requested allocation of the safety margin to the VOC MVEB for the Walworth County ozone maintenance area.

EPA is publishing this action without prior proposal, because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comments by November 27, 2000. Should the Agency receive such comment, we will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action

should do so at this time. If we do not receive comments, this action will be effective on December 26, 2000.

#### Administrative Requirements

##### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled “Regulatory Planning and Review.”

##### B. Executive Orders on Federalism

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA’s prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation.

In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments “to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.” Today’s rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132 (64 FR 43255 (August 10, 1999)), which will take effect on November 2, 1999. In the interim, the current Executive Order 12612 (52 FR 41685 (October 30, 1987)) on federalism still applies. This rule will not have a substantial direct effect on 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 12612. The rule affects only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

##### C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety

Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be “economically significant” as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

##### D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA’s prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments “to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.” Today’s rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

##### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

#### F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### G. Submission to Congress and the Comptroller General

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 rule 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 rule is not a “major” rule as defined by 5 U.S.C. 804(2).

#### H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to perform activities conducive to the use of VCS.

#### I. Petitions for Judicial Review

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 December 26, 2000. 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, Hydrocarbons, Ozone, Volatile Organic Compound, Transportation conformity.

Dated: October 11, 2000.

**Norman Niedergang,**

*Acting Regional Administrator, Region 5.*

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 52.2585 is amended by adding paragraph (n) to read as follows:

##### § 52.2585 Control strategy: Ozone.

\* \* \* \* \*

(n) Approval—On September 8, 2000, Wisconsin submitted a revision to the ozone maintenance plan for the Walworth County area. The revision consists of allocating a portion of the Walworth County area’s Volatile Organic Compounds (VOC) safety margin to the transportation conformity Motor Vehicle Emission Budget (MVEB). The MVEB for transportation conformity purposes for the Walworth County area are now: 5.39 tons per day of VOC emissions and 7.20 tons per day of oxides of nitrogen emissions for the year 2007. This approval only changes the VOC transportation conformity MVEB for Walworth County.

\* \* \* \* \*

[FR Doc. 00–27399 Filed 10–25–00; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[MO 110–1110; FRL–6889–8]

##### Approval and Promulgation of Implementation Plans; State of Missouri

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving an amendment to the Missouri State Implementation Plan (SIP) pertaining to a new statewide visible emissions rule, and the rescission of four, old area specific visible emission rules. The new statewide rule consolidates the requirements of the four old area specific rules. The effect of this approval is to ensure Federal enforceability of the state air program rules and to maintain consistency between the state-adopted rules and the approved SIP.

**DATES:** This rule is effective on December 26, 2000 without further notice, unless EPA receives adverse written comment by November 27, 2000. If EPA receives such comments, it will publish a timely withdrawal of the