

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R05-OAR-2006-0797; FRL-8269-2]

**Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Correction****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This document corrects an error in the Incorporation by Reference Section in a final rule pertaining to the May 17, 1999, approval of the State of Wisconsin's Prevention of Significant Deterioration (PSD) rules. That rulemaking erroneously incorporated by reference a section of the Wisconsin Administrative Code dealing with the state's hazardous pollutants rule. That section of the rule was not included in the state's request for SIP approval of its PSD rules. EPA, therefore, is removing this provision from the SIP.

**DATES:** *Effective Date:* This final rule is effective on January 18, 2007.

**FOR FURTHER INFORMATION CONTACT:** Susan Siepkowski, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-2654, [siepkowski.susan@epa.gov](mailto:siepkowski.susan@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA published a document on May 27, 1999, (64 FR 28745) approving Wisconsin's PSD rules into the SIP. In this approval EPA erroneously incorporated by reference into 40 CFR part 52, subpart YY (§ 52.2570(c)(98)(i)), Section NR 445m of the Wisconsin Administrative Code. No provisions in Section NR 445 were requested for SIP approval in Wisconsin's November 6, 1996, SIP submittal for approval of its PSD program. Further, NR 445m is a typographical error, as NR 445m does not exist in the Wisconsin Administrative Code. Therefore, the reference under § 52.2570(c)(98)(i) to NR 445m, as well as any implied reference to NR 445 is being removed.

**Correction**

In the final rule published in the **Federal Register** on May 27, 1999 (64 FR 28745), on page 28747 in the third column, last paragraph, "AM-9-95 modifies Chapter NR, Sections 30.03, 30.04, 400 Note, 400.02, 400.03, 401.04, 404.06, 405.01, 405.02, 405.04, 405.05, 405.07, 405.08, 405.10, 406, 407, 408,

409, 411, 415, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 429, 436, 438, 439, 445m, 447 \* \* \*" is corrected to read: "AM-9-95 modifies Chapter NR, Sections 30.03, 30.04, 400 Note, 400.02, 400.03, 401.04, 404.06, 405.01, 405.02, 405.04, 405.05, 405.07, 405.08, 405.10, 406, 407, 408, 409, 411, 415, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 429, 436, 438, 439, 447 \* \* \*".

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

**Statutory and Executive Order Reviews**

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore 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). Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section, above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does 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), nor will it 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 governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under 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 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of January 18, 2007. 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**. This correction to 40 CFR part 52 for Wisconsin is not a "major rule" as defined by 5 U.S.C. 804(2).

Dated: December 29, 2006.

Gary Gulezian,

Acting Regional Administrator, Region 5.

### List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Particulate matter, Reporting and recordkeeping requirements.

■ Part 52 of chapter I, title 40, 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 revising paragraph (c)(98) to read as follows:

#### § 52.2570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(98) On November 6, 1996, the State of Wisconsin submitted rules pertaining to requirements under the Prevention of Significant Deterioration program. Wisconsin also submitted rule packages as revisions to the state implementation plans for particulate matter and revisions to the state implementation plans for clarification changes.

(i) *Incorporated by reference.* The following sections of the Wisconsin Administrative Code (WAC) are incorporated by reference. Both rule packages, AM-27-94 and AM-9-95, were published in the (Wisconsin) Register in April 1995, No. 472, and became effective May 1, 1995. AM-27-94 modifies Chapter NR, Sections 400.02(39m), 404.05, 405.02, 405.07, 405.08, 405.10, 405.14, and 484.04 of the WAC. AM-9-95 modifies Chapter NR, Sections 30.03, 30.04, 400 Note, 400.02, 400.03, 401.04, 404.06, 405.01, 405.02, 405.04, 405.05, 405.07, 405.08, 405.10, 406, 407, 408, 409, 411, 415, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 429, 436, 438, 439, 447, 448, 449, 484, 485, 488, 493, and 499 of the WAC.

\* \* \* \* \*

[FR Doc. E7-521 Filed 1-17-07; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA-HQ-SFUND-1989-0008; FRL-8268-6]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

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

**ACTION:** Direct final notice of deletion of the Berkley Products Company Dump Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region III is publishing a direct final notice of deletion for Berkley Products Company Dump Superfund Site (Site), located in West Cocalico Township, Lancaster County, Pennsylvania from the National Priorities List (NPL).

The NPL constitutes Appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This direct final deletion is being published by EPA with concurrence of the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP) because EPA has determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been implemented to protect human health, welfare and the environment. However, this deletion does not preclude future actions under Superfund.

**DATES:** This direct final deletion will be effective March 19, 2007 unless EPA receives adverse comments by February 20, 2007. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-1989-0008, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the on-line instruction for submitting comments.

- Email: [schrock.roy@epa.gov](mailto:schrock.roy@epa.gov).
- Fax: 215-814-3002
- Mail: Mr. Roy Schrock, Remedial Project Manager (3HS22), U.S. EPA, Region 3, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.

- Hand Delivery: 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-SFUND-1989-0008. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the EPA's Region III, Regional Center for Environmental Information (RCEI) 2nd floor, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-1029, (215) 814-5254 or (800) 553-2509, Monday through Friday 8 a.m. to 5 p.m. excluding legal holidays and at the West Cocalico Township Municipal Building, 156B West Main, West Cocalico Township, Reinholds, Pennsylvania