review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this final priority only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

An IDEA Fiscal Data Center funded under the priority established by this regulatory action will assist States in complying with Federal laws and regulations. Without this regulatory action, the burden of improving State capacity to collect, report, and analyze IDEA data will fall solely on the responsible State and local entities.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

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Dated: August 6, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–18968 Filed 8–8–14; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2014–0517; FRL–9914–95–Region–5]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Finding of Failure To Submit a PSD State Implementation Plan Revision for $PM_{2.5}$

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) finds that the State of Wisconsin has not made a necessary Prevention of Significant Deterioration (PSD) State Implementation Plan (SIP) submission to address the PSD permitting of Particulate Matter of less than 2.5 micrometers ($PM_{2.5}$) emissions, as required by the Clean Air Act (CAA). Specifically, EPA has determined that Wisconsin has not submitted a SIP revision to address the $PM_{2.5}$ PSD increments and implementing regulations as promulgated by EPA on October 20, 2010, by the required deadline of July 20, 2012. The CAA requires EPA to promulgate a Federal Implementation Plan (FIP) to address the outstanding PSD SIP elements by no later than 24 months after the effective date of this finding. EPA is making this finding in accordance with section 110 and part C of the CAA.

DATES: This final rule is effective on August 11, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2014–0517. All documents in the docket are listed on the *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 *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 Andrea Morgan, Environmental Engineer, at (312) 353–6058 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Andrea Morgan, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6058, *@morgan.andrea@epa.gov.*

SUPPLEMENTARY INFORMATION: Section 553 of the Administrative Procedures Act (APA), 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. EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where States have made no submissions to meet the requirement. No additional fact gathering is necessary. Thus, notice and public procedure are unnecessary. Furthermore, providing notice and comment would be impracticable because of the limited time provided under the CAA for making such determinations. EPA believes that because of the limited time and non-controversial nature of this finding, Congress did not intend that it be subject to notice-and-comment rulemaking. Finally, notice and comment would be contrary to the public interest because it would divert Agency resources from the critical substantive review of submitted SIPs. See 58 FR 51270, 51272, note 17 (October 1, 1993); 59 FR 39832, 39853 (August 4, 1994). EPA finds that these constitute good cause under 5 U.S.C. 553(b)(B).

EPA has also determined that today's finding of failure to submit for Wisconsin is effective upon publication because this final action falls under the good cause exemption in 5 U.S.C. 553(d)(3) of the APA. The expedited effective date for this action is authorized under 5 U.S.C. 553(d)(3), which allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' EPA has determined that there is good cause for making this rule effective upon publication because the PSD SIP element is already overdue and the State has been made aware of applicable provisions of the CAA relating to overdue SIP revisions. The State of Wisconsin failed to submit a required PSD SIP revision by the mandated deadline of July 20, 2012. We have previously alerted Wisconsin through meetings that it has failed to make the submittal by the deadline. Consequently, the State has been on notice that today's action was pending. The State and general public are aware of applicable provisions of the CAA that relate to failure to submit a required implementation plan. In addition, this action simply starts a 24-month ''clock'' wherein EPA must promulgate a Federal Implementation Plan (FIP) as required by CAA section 110(c). Additionally, the purpose of the 30-day waiting period prescribed in 5 U.S.C. 553(d) is to give affected parties a reasonable time to prepare before the final rule takes effect. Whereas here, the affected parties, such as the State of Wisconsin and sources within the State, do not need time to adjust and prepare before the finding of failure to submit takes effect. EPA finds that the above reasons support an effective date prior to 30 days after the date of publication and constitute good cause under 5 U.S.C. 553(d)(3).

Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Overview of the $PM_{2.5}$ National Ambient Air Qquality Standards Requirements

To implement the $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS), EPA issued two separate final rules that establish the New Source Review (NSR) permitting requirements for $PM_{2.5}$: the NSR $PM_{2.5}$ Implementation Rule promulgated on May 16, 2008 (73 FR 28321), and the $PM_{2.5}$ PSD Increments—Significant Impact Levels (SILs)—Significant Monitoring Concentration (SMC) Rule promulgated on October 20, 2010 (75 FR 64864). EPA's 2008 NSR $PM_{2.5}$ Implementation Rule required States to submit applicable SIP revisions to EPA no later than May 16, 2011, to address this rule's PSD and nonattainment NSR SIP requirements. The Wisconsin Department of Natural Resources (WDNR) first submitted provisions addressing the 2008 $PM_{2.5}$ NSR Implementation Rule on May 12, 2011, and on July 25, 2013, EPA issued a final disapproval of the submittal because it did not include all of the required elements (78 FR 44881). WDNR submitted a revised SIP revision to EPA on March 12, 2014, and EPA proposed approval of the revised provisions on June 30, 2014 (79 FR 36689), because EPA found the submittal addressed all the required elements of the 2008 NSR $PM_{2.5}$ Implementation Rule. As Wisconsin made a submission that fully addressed the 2008 $PM_{2.5}$ NSR Implementation Rule, today's finding of failure to submit only addresses the required elements of the 2010 $PM_{2.5}$ PSD Increments—SILs—SMC Rule.

The $PM_{2.5}$ PSD Increments—SILs—SMC Rule required States to submit SIP revisions to EPA by July 20, 2012, adopting provisions equivalent to or at least as stringent as the $PM_{2.5}$ PSD increments and associated implementing regulations. Specifically, the rule requires a State's submitted PSD SIP revision to adopt and submit for EPA approval the $PM_{2.5}$ increments issued pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS. States were also required to adopt and submit for EPA approval revisions to the definitions for ''major source baseline date,'' ''minor source baseline date,'' and ''baseline area'' as part of the implementing regulations for the $PM_{2.5}$ increments.

The $PM_{2.5}$ PSD Increments—SILs—SMC Rule also allowed States to discretionarily adopt and submit for EPA approval: (1) SILs, which are used as a screening tool to evaluate the impact a proposed new major source or major modification may have on the NAAQS or PSD increment; and (2) a SMC (also a screening tool), which is used to determine the subsequent level of data gathering required for a PSD permit application for emissions of $PM_{2.5}$. However, on January 22, 2013, the United States Court of Appeals for the District of Columbia Circuit (Court) granted a request from EPA to vacate and remand to EPA the portions of the $PM_{2.5}$ PSD Increments — SILs—SMC Rule $PM_{2.5}$ addressing the SILs for $PM_{2.5}$ so that EPA could voluntarily correct an error in these provisions. The Court also vacated the parts of the $PM_{2.5}$ PSD Increments — SILs—SMC Rule establishing a $PM_{2.5}$ SMC, finding that EPA was precluded from using the $PM_{2.5}$ SMCs to exempt permit applicants from the statutory requirement to compile preconstruction monitoring data. *Sierra Club* v. *EPA, 705 F.3d 458,*

463–69. On December 9, 2013, EPA issued a good cause final rule formally removing the affected SILs and SMC provisions from the CFR. See 78 FR 73698. As such, SIP submittals should no longer include the vacated $PM_{2.5}$ SILs at 40 CFR 51.166(k)(2) and 52.21(k)(2) and vacated $PM_{2.5}$ SMC provisions at 40 CFR 51.166(i)(5)(i)(c) and 52.21(i)(5)(i)(c) for $PM_{2.5}$ PSD permitting. EPA notes that today's finding of failure to submit for the State of Wisconsin only applies to $PM_{2.5}$ increments and the supporting regulations and does not include the optional SILs and SMC component of the $PM_{2.5}$ PSD Increments—SILs—SMC Rule.

II. What action is EPA taking?

EPA is making a finding that the State of Wisconsin has failed to submit a required PSD SIP revision to address the implementation and permitting of $PM_{2.5}$ emissions in the Wisconsin PSD program. Specifically, we are finding that Wisconsin failed to submit a SIP revision, addressing the required $PM_{2.5}$ PSD elements establishing increments and the implementing regulations by the specified deadline of July 20, 2012, as required by the 2010 $PM_{2.5}$ PSD Increments—SILs—SMC Rule. By no later than 24 months after the effective date of this ruling, EPA is required by the CAA to promulgate a FIP for Wisconsin to address the $PM_{2.5}$ PSD requirements for increments. In addition, CAA section 110(c) provides that EPA can promulgate a FIP immediately after making the finding of failure to submit a required SIP, as late as two years after making the finding, or any time in between. This finding of failure to submit does not impose sanctions or set deadlines for imposing sanctions as described in section 179 of the CAA, because this finding does not pertain to the elements of a part D, title I, plan for nonattainment areas as required under section 110(a)(2)(I), and because this action is not a SIP call pursuant to section 110(k)(5). This action will be effective on August 11, 2014.

III. Statutory and Executive Order Reviews.

A. Executive Order 12866: Regulatory Planning and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under EO 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This final rule does not establish any new information collection requirement apart from what is already required by law. This rule relates to the requirement in the CAA for States to submit PSD SIPs under section 166(b) to satisfy certain PSD requirements under the CAA for the $PM_{2.5}$ NAAQS. Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control numbers for EPA's regulations in the CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the APA or any other statute 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 organizations and small governmental jurisdictions. For the purpose of assessing the impacts of this final rule on small entities, small entity is defined as: (1) A small business that is a small industry entity as defined in the U.S. Small Business Administration size standards *(See* 13 CFR 121); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities. This action relates to the requirement in the CAA for States to submit PSD SIPs under section 166(b) to satisfy certain prevention of significant deterioration requirements of the CAA for the $PM_{2.5}$ NAAQS. Because EPA has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the APA and any other statute, it is not subject to the regulatory flexibility provisions of the RFA.

D. Unfunded Mandates Reform Act of 1995 (UMRA)

This action contains no federal mandate under the provisions of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538 for State, local and tribal governments and the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of section 202 and 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action relates to the requirement in the CAA for States to submit PSD SIPs under section 166(b) to satisfy certain prevention of significant deterioration requirements under the CAA for the $PM_{2.5}$ NAAQS. This rule merely finds that Arkansas has not met that requirement. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector result from this action.

Additionally, because EPA has made a ''good cause'' that this action is not subject to notice-and-comment requirements under the APA or any other statute, it is not subject to sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

EO 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the EO to include regulations that have ''substantial direct effects on the States, or the relationship between

the national government and the States or on the distribution of power and responsibilities among the various levels of government.'' This final rule does not have federalism implications. It will 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 EO 13132. The CAA establishes the scheme whereby States take the lead in developing plans to meet the NAAQS. This rule will not modify the relationship of the States and EPA for purposes of developing programs to implement the NAAQS. Thus, EO 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

EO 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.'' This final rule does not have tribal implications, as specified in EO 13175. This rule responds to the requirement in the CAA for States to submit PSD SIPs under section 166(b) to satisfy certain prevention of significant deterioration requirements under the CAA for $PM_{2.5}$ NAAQS. No tribe is subject to the requirement to submit an implementation plan under section 166(b) within 21 months of promulgation of PSD regulations under section 166(a).

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it merely finds that Wisconsin has failed to make a submission that is required under the CAA to implement the $PM_{2.5}$ NAAQS.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This rule is not a ''significant energy action'' as defined in EO 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS. This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

EO 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States. EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not directly affect the level of protection provided to human health or the environment. This action is making a finding that the State of Wisconsin failed to submit a SIP revision that provides certain basic permitting requirements for the $PM_{2.5}$ NAAQS.

K. Congressional Review Act

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 any rule effective ''at such time as the Federal agency promulgating the rule determines'' 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 has made such a good cause finding, including the reasons therefor, and established an effective date of August 11, 2014. EPA submitted 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 action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective August 11, 2014.

L. Judicial Review

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 October 10, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 28, 2014.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2014–18827 Filed 8–8–14; 8:45 am]

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