

Dated: August 8, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

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 F—California

2. Section 52.220 is amended by adding paragraph (c)(298) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(298) New and amended contingency measures for the following APCDs were submitted on May 29, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Santa Barbara County Air Pollution Control District.

(1) 2001 Clean Air Plan Contingency Control Measures R-SC-1 (Architectural Coatings); N-IC-1 and N-IC-3 (Control of Emissions from Reciprocating Internal Combustion Engines); N-XC-2 (Large Water Heaters and Small Boilers, Steam Generators, and Process Heaters); R-SL-2 (Solvent Degreasers) [incorrectly identified as CAP Control Measure R-SL-1 in Table 4-3, "Proposed APCD Control Measures"]; R-SL-2 (Solvent Cleaning Operations); N-IC-2 (Gas Turbines); R-SL-4 (Electronic Industry—Semiconductor Manufacturing); N-XC-4 (Small Industrial and Commercial Boilers, Steam Generators, and Process Heaters), adopted on November 15, 2001.

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[FR Doc. 02-21285 Filed 8-26-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 157-1157a; FRL-7266-9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the state of Missouri. This

revision pertains to excess emissions emitted during start-up, shutdown, and malfunction conditions and the affirmative defenses available to sources. This revision updates the existing state rule to be consistent with EPA guidance. This revision will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's revised rule.

DATES: This direct final rule will be effective October 28, 2002, unless EPA receives adverse comments by September 26, 2002. 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: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551-7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What Is a SIP?

What Is The Federal Approval Process for a SIP?

What Does Federal Approval of a State Regulation Mean to Me?

What Is Being Addressed In This Document? Have the Requirements for Approval of a SIP Revision Been Met?

What Action Is EPA Taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

On September 20, 1999, we issued updated policy regarding excess emissions during malfunctions, startup,

and shutdowns.¹ This policy specifies criteria for SIPs which address periods of excess emissions due to malfunctions, startup, or shutdown.

The state of Missouri has subsequently revised its existing SIP approved rule, 10 CSR 10–6.050 Start-Up, Shutdown and Malfunction Conditions, to incorporate certain provisions of the policy which had not previously been included in the rule. In a submittal letter dated April 16, 2002, the state requested that we approve this revision as an amendment to the Missouri SIP.

The state's rule, applicable to all installations in Missouri, provides the owner or operator of an installation the opportunity to submit data regarding conditions which result in excess emissions. These submittals will be used by the MDNR director to determine whether the excess emissions were due to a start-up, shutdown or malfunction condition. These determinations will be used in deciding whether or not enforcement action is appropriate.

In revising its rule, the state incorporated, in subsection (3)(C), additional factors to be considered by the director, and added additional information requirements in subsection (3)(A) and paragraph (3)(C)2. Language was added in subsections (3)(A) and (3)(B) to set a threshold of one hour for excess emissions which require a written report. The requirement to report excess emissions on the annual Emissions Inventory Questionnaire was clarified in subsection (4)(B). Other revisions were made to make the rule consistent with Title V requirements. The definitions section was removed since all relevant definitions are contained in the state's definition rule, 10 CSR 10–6.020. Finally, the format of the rule was revised to be consistent with the state's new standard rule format. The state's revisions were effective February 28, 2002.

In summary, the revised rule is consistent with EPA's aforementioned policy. Thus, we are taking action to approve this revision in the Missouri SIP.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained

¹ Memorandum from Steven Herman and Robert Perciasepe to Regional Administrators, Regions I–X; *State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown*.

above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are processing this action as a final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Final action: EPA is approving as an amendment to the Missouri SIP revisions to rule 10 CSR 10–6.050, "Start-Up, Shutdown and Malfunction Conditions" pursuant to section 110 of the CAA.

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 law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. 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 CAA. 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 CAA. 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 CAA. 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. 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. 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 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 October 28, 2002. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping

requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 14, 2002.

James B. Gulliford,
Regional Administrator, Region 7.

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 AA—Missouri

2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for “10–6.050” to read as follows:

§ 52.1320 Identification of plan.

* * * * *
(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * *				
10–6.050	Start-Up, Shutdown and Malfunction Conditions	2/28/02	8/27/02 and FR cite	
* * * * *				

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[FR Doc. 02–21661 Filed 8–26–02; 8:45 am]
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DEPARTMENT OF TRANSPORTATION
Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 177, and 178

[Docket No. RSPA–98–3971 (HM–226)]

RIN 2137–AD13

Hazardous Materials: Revision to Standards for Infectious Substances; Correction

AGENCY: Research and Special Programs Administration (RSPA), DOT.
ACTION: Correction to final rule effective date.

SUMMARY: This document corrects the effective dates for a final rule revising transportation requirements for infectious substances, published in the **Federal Register** on August 14, 2002 (67 FR 53118). The effective date for the final rule and the incorporation by reference approval date are corrected to February 14, 2003.

DATES: The effective date of the final rule amending 49 CFR Parts 171, 172, 173, 177, and 178, published at 67 FR 53118 on August 14, 2002, is corrected to February 14, 2003.

The incorporation by reference of publications listed in this final rule has been approved by the Director of the Federal Register as of February 14, 2003.

FOR FURTHER INFORMATION CONTACT: Susan Gorsky (202) 366–8553, Office of Hazardous Materials Standards, Research and Special Programs Administration.

SUPPLEMENTARY INFORMATION:

Background

On August 14, 2002, the Research and Special Programs Administration issued a final rule to revise the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) as they apply to the transportation of infectious substances. The published effective date was October 1, 2002.

Need for Correction

The October 1, 2002 effective date does not provide sufficient time for all segments of the industry to come into compliance with the new requirements.

Correction

In rule document 02–20118, on page 53118 in the issue of Wednesday, August 14, 2002, make the following correction:

On page 53118 in the first column, in the **DATES** section, the effective dates of the final rule and the IBR approval are corrected to read as set forth above in the **DATES** section of this document.

Issued in Washington, DC on August 16, 2002 under authority delegated in 49 CFR Part 106.

Ellen G. Engleman,
Administrator, Research and Special Programs Administration.
[FR Doc. 02–21473 Filed 8–26–02; 8:45 am]

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