## PART 1234—ELECTRONIC RECORDS MANAGEMENT

19. The authority citation for part 1234 continues to read as follows:

**Authority:** 44 U.S.C. 2904, 3101, 3102, and 3105.

20. In part 1234, whenever it occurs, revise the reference to ''§ 1228.188'' to read ''§ 1228.270''.

**§ 1234.10 [Amended]**

21. In paragraph (a) of § 1234.10 remove the phrase Aand the General Services Administration Regulations Branch (KMPR), Washington, DC 20405,'' and add in its place ''and the General Services Administration, Office of Government Policy (MKB), Washington, DC 20405,''.

## PART 1236—MANAGEMENT OF VITAL RECORDS

22. The authority citation for part 1236 continues to read as follows:

**Authority:** 44 U.S.C. 2104(a), 2904(a), 3101, E.O. 12958, 53 FR 47491, 3 CFR 1988 Comp., p. 585.

23. Amend § 1236.26 by revising paragraphs (a) and (c)(2) to read as follows:

**§ 1236.26 Protection of vital records.**

* * * * *

(a) *Duplication.* Computer backup tapes created in the normal course of system maintenance or other electronic copies that may be routinely created in the normal course of business may be used as the vital record copy. For hard copy records, agencies may choose to make microform copies. Standards for the creation, preservation and use of microforms are found in 36 CFR part 1230, Micrographic Records Management. The Clinger-Cohen Act (40 U.S.C. 1401, Pub. L. 104–106, *et seq.*, as amended by Pub. L. 104–208), OMB Circular A–130, and 36 CFR part 1234, Electronic Records Management, and 41 CFR part 201, subchapter B, Management and Use of Information and Records, specify protective measures and standards for electronic records.

* * * * *

(c) * * *

(2) The off-site copy of legal and financial rights vital records may be stored at an off-site agency location or, in accordance with § 1228.162 of this chapter, at an FRC.

* * * * *

Dated: May 2, 2001.

**John W. Carlin,**

*Archivist of the United States.*

[FR Doc. 01–12265 Filed 5–15–01; 8:45 am]

**BILLING CODE 7515–01–U**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[MO 122–1122; FRL–6980–8]**

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

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a rule revision submitted by the state of Missouri to clarify that any credible evidence (referenced as the ''CE revisions'' or ''CE'' throughout this document) may be used to establish compliance or noncompliance with applicable requirements of the Missouri air pollution control regulations under the authority of applicable provisions in section 110(a) of the Clean Air Act (the ''Act'') (CAA). EPA proposed approval of the Missouri rule on February 6, 1996. The proposal was accompanied by a direct final rule approving the Missouri submission. In that rule, EPA stated that the rule would become final if no adverse comments were received, but that if EPA received adverse comments, it would withdraw the final rule, treat the action as a proposed rulemaking, and respond to the comments prior to taking a final action. Because it received adverse comments, EPA withdrew the final action. We are now taking final action to approve the rule. Public comments are addressed in this action and in a Response to Comments document.

**DATES:** This rule is effective on June 15, 2001.

**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 Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. 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.

**I. SUPPLEMENTARY INFORMATION:**

### A. Introduction

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 State Implementation Plan (SIP)?*

Section 110 of the 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 EPA 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, EPA is authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in the CAA.

*What Is Being Addressed in This Document?*

EPA is approving a rule revision submitted by the state of Missouri to clarify that any credible evidence may be used to establish compliance or noncompliance with applicable requirements of the Missouri air pollution control regulations under the authority of applicable provisions in section 110(a) of the CAA. Missouri adopted and submitted the CE revision pursuant to an EPA call for a SIP revision under section 110(k)(5) of the Act, issued by us on May 11, 1994 (the ''SIP call''). The SIP call to Missouri was part of a national SIP call announced in a proposed rulemaking published on October 22, 1993, at 58 FR 54648, which, in part, proposed rule revisions to various EPA rules to clarify that any credible evidence can be used to establish compliance or noncompliance with applicable requirements of the Act. EPA published its final rule promulgating the CE rules on February 24, 1997, at 62 FR 8314. EPA proposed approval of the Missouri rule on February 6, 1996, at 61 FR 4391. The proposal was accompanied by a direct final rule approving the Missouri submission (61 FR 4352). In that rule, we stated that the rule would become final if no adverse comments were received, but that if we received adverse comment, we would withdraw the final rule, treat the action as a proposed rulemaking, and respond to the comments prior to taking a final action. Because we received adverse comments, we withdrew the final action and we are responding to the comments in this document. References to the ''proposal'' or ''proposed rule'' are to the rule published initially as a direct final rule.

*What Comments Were Received by EPA and What Are EPA's Responses to the Comments?*

In response to the proposed approval of the Missouri rule, EPA received a number of comments, submitted by six industries and industry associations. Some comments relate specifically to the Missouri rule. Other comments are the same or similar to comments submitted on the 1993 national proposed rulemaking (sometimes referenced herein as the ''national'' rule). In its response to comments, we have responded in detail to the Missouri-specific comments, and in summary form to the comments that were also submitted on the national proposal. We provided a more detailed response to these comments in the ''Supplement to the Technical Support Document for the Missouri Compliance Monitor Usage Rule—Response to Comments'' and in the February 1997 response to comments accompanying the promulgation of the national rule, both of which are in the docket for the final action on the Missouri rule. The reader may request a copy at the location identified above. A summary of the more important comments and our responses follow.

Because a petition for review, which raised issues relevant to EPA's action on the Missouri rule, was pending on the national rule, we chose to withhold temporarily our final action on the state rule. Since the petition on the national rule has been dismissed, *Clean Air Implementation Project* v. *Environmental Protection Agency*, 150 F. 3d 1200 (D.C. Cir. 1998), we are now proceeding with final action on the Missouri rule.

Comments Relating to Statutory Authority for the Use of CE

A number of commenters objected to allowing the use of any credible evidence to determine compliance, arguing that section 113(e) allows such evidence to be used only to assess penalties, and not to determine initially whether a violation has occurred. In general, the commenters argue that, by its terms, section 113(e) applies only to evidence showing the duration of the violation and not to the evidence that can be used to establish the existence of a violation. The commenters also argue that the legislative history supports their assertion that CE can only be used to establish duration. One commenter also stated that the rule is a departure from the ''longstanding'' practice of determining violations based solely on the reference test method specified in the relevant emission limit.

As explained in detail in the February 1997 response to comments on the national rule (in particular, section 1.1), the CAA provides ample authority to allow the states, EPA, and citizens to offer any credible evidence to establish the initial existence of a violation as well as the duration of a violation. This authority is not only in section 113(e), but also in other sections (e.g., sections 113(a), 114(a)(3), 301, and 504(b)). The various provisions dealing with the basis for enforcing against violations, for monitoring, and for certifying compliance, show that Congress intended to clarify the types of evidence that can be used to prove a violation initially, as well as the evidence that can be used to show subsequent violations (for purposes of establishing the duration of the violation). Moreover, because the use of CE does not change existing compliance obligations, the credible evidence revisions are a permissible exercise of our general rulemaking authority in section 301.

Regarding past practice concerning the use of the applicable reference test method, we explained in the February 1997 response to comments that it has used and continues to use the reference test method as the major indicator of compliance status. However, we also explained that past use of the reference test method as the exclusive means to show compliance has not been dictated by any requirement of the CAA, but by the language in individual regulations. EPA's promulgation of the national CE rules amended the regulations consistent with the authority in section 113(a) to base enforcement actions on ''any information'' available to us. Similarly, our approval of the Missouri compliance usage rule into the SIP clarifies that nonreference test data can be used to determine compliance with the Missouri air pollution control rules, and remedies a deficiency in the SIP, to the extent that state regulations could previously have been interpreted to mean that compliance could only be determined by the results of a reference test method. (Authority to require CE provisions in SIPs is discussed in section 4 of the response to comments document.)

Comments Relating to the Relationship Between CE and Enhanced Monitoring

Several commenters objected to the proposed approval of the Missouri rule based on the perceived relationship between the credible evidence rule and the enhanced monitoring rule (proposed in 1993 along with the proposed national CE rule). The commenters stated that the national CE rule was dependent on the proposed enhanced monitoring (EM) rule, and that since the EM rule was, according to one commenter, withdrawn, EPA could not go forward with the CE rule, the CE SIP call, or approval of any state CE rules. Another commenter stated that, since the revised EM or compliance assurance monitoring (CAM) rule had not yet been developed, there was no meaningful opportunity to comment on the effect of the Missouri CE rule on underlying emission limits. Finally, one commenter stated that EPA should take no action on the Missouri rule until EPA had promulgated a CAM rule.

We responded extensively to the issues raised in these comments in our promulgation of the national CE rule, in the preamble and the response to comments document. In summary, we clarified that the EM proposal had not been formally withdrawn. In addition, we determined that the CE rule, while proposed at the same time as the EM proposal, could be promulgated apart from the EM/CAM rule. The purpose of the CE rule is to remove barriers to consideration of credible evidence, such as EM/CAM data and other relevant data, in determining violations of emission standards, and knowledge of the specific requirements of the EM/CAM rule is not necessary to formulate comments on the CE rule. In addition, we noted that the 1993 proposal gave notice that the CE revisions were separate from the EM proposal. Both the national CE rule revisions and the Missouri CE rule are revisions to existing regulations that were not dependent on promulgation of the EM/CAM rule.

Compliance of the State Rule With Missouri Law

Two commenters raised issues concerning the validity of the Missouri rule under state law. The commenters referenced a provision in the Missouri statutes that provides, with certain exceptions, that the state environmental agency cannot adopt rules which are ''any stricter than those required under the provisions of the Federal Clean Air Act * * *'' (Mo. Rev. Stat. section 643.055.1). One commenter stated that since EPA had not (as of the date of the comment letter, March 6, 1996) adopted either the enhanced monitoring or the credible evidence rule, EPA's approval of the state rule would be contrary to the Missouri statute referenced above. Another commenter stated that since EPA had no authority under the Act to require that Missouri adopt a CE rule (see discussion of related comments in sections 1 and 4 of the Response to Comments on the Missouri rule), Missouri lacked legal authority to adopt the state rule because of the limitation on rulemaking in the state statute.

EPA's authority to issue the call for SIP revisions to Missouri and other states was summarized above and in section 4 of the Response to Comments and discussed in detail in the national CE rulemaking. As shown in those discussions, the premise for the commenters' assertion that Missouri lacked authority to adopt its CE rule is incorrect, since the state rule was adopted in response to a SIP call issued by EPA to correct a deficiency in the state rules to meet a requirement of the Act. Therefore, the comments concerning the validity of the state regulation are, in large part, a reiteration of the issues relating to our authority to issue the CE rule and SIP call, to which we have previously responded.

In addition, contrary to the suggestion of one commenter, the state's statutory restriction on adoption of rules is a limitation on the state's ability to promulgate rules. It is not a restriction on our authority to approve a rule that the state has properly submitted. In submitting the state rule, both EPA and Missouri determined that the CAA required the rule, and that the state had adequate legal authority to adopt and implement the rule (letter dated February 21, 1995, from David Shorr, Director, Missouri Department of Natural Resources to Dennis Grams, Regional Administrator, EPA). EPA's review of the rule was based on whether it met the requirements of section 110 and related provisions of the Act.

Significantly, the record of public comments on the state's proposal of the rule does not indicate that this issue, which is clearly a matter of state law, was ever raised to the state's rulemaking body for consideration prior to its adoption of the rule. Even if there were any validity to the assertion that Missouri lacked authority to adopt the rule, this would have been an issue for the state, not EPA, to consider. In fact, however, the state agency charged with promulgating rules in accordance with its enabling authority specifically determined that the rule was required by Federal law, and that it had adequate authority to adopt the rule. The commenter, in effect, asks EPA to second-guess the state's application of its own law, by raising an issue that it raised for the first time after the state's rulemaking action has been completed. The commenter incorrectly states not only the requirements of the CAA, but also our role in acting on state revisions to its SIPs. The state determined that it properly adopted the rule under state law, and the commenter raises no issues that would cause us to question the state's determination.

One commenter stated that the proposed approval of the Missouri rule was procedurally flawed because we had effectively withdrawn the national enhanced monitoring rule, and the SIP call had not required submission of the Missouri rule until promulgation of the national rule. The commenter contended that approval of the Missouri rule would be pointless, because state law (referenced previously) bars the state from enforcing a rule sooner than required by Federal law.

The Missouri statute provides that the state agency may not, in certain instances, adopt standards that are more stringent than required by the Federal Act, and that such standards cannot be ''enforced'' any sooner than required by the Act. The commenter states that, since the SIP call did not require states to submit CE SIP revisions until promulgation of the ''enhanced monitoring'' rule (which had not been promulgated in any form), the state cannot enforce its rule pending EPA action promulgating a national monitoring rule.

As shown above, Missouri determined that it had adequate authority to adopt and implement the CE rule under state law, and EPA has no basis to question this determination. In addition to that discussion, EPA notes that the comment is based on the implicit assumption that the Missouri rule adds substantive requirements that could be ''enforced.'' As explained in response to a prior comment, the rule does not add substantive new requirements, but only clarifies that nonreference test data may be used to determine compliance with the applicable standard. Therefore, the rule does not impose requirements that Missouri would be enforcing prior to a time required under the Act. EPA notes that its position on this issue is consistent with the position stated by Missouri in its response to comments on the proposed state rule. In response to a comment that the rule would give the state ''undefined and unbridled'' enforcement authority, Missouri responded that it ''does not open a whole new area of enforcement * * * Violations can only exist in the context

of an emission limitation or requirement [in the existing rules].'' While the commenters did not ask Missouri to consider its CE rule in the context of the statutory restriction, the state clearly understood the rule as a clarification of existing emission limitations rather than as establishing additional enforceable requirements. (See ''Comments and Responses on the Proposed Rule 10 CSR 10–6.280 Compliance Monitoring Usage and Recommendation for Adoption,'' Commission Briefing Document, August 25, 1994, p. 222, which is in the docket for this rulemaking.)

Regarding the comment that EPA cannot approve the state rule before it takes final action on the national CE rule, EPA regards the comment as moot, since we have now taken final action to promulgate the national rule. Moreover, our approval of state CE rules is not contingent on promulgation of the national rule, but on whether the state submittal meets the requirements of the Act. Our rationale for proceeding with the SIP calls and acting on state submissions before the national CE rule promulgation was explained in the preamble to the proposed and final CE rulemaking, referenced above.

The reader should refer to the Response to Comments on the proposed approval of the Missouri rule for other issues raised by the commenters and our responses.

*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 above in the response to comments 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. More information on the February 6, 1996, notice of direct final rulemaking is contained in the technical support document in the docket.

*What Action Is EPA Taking?*

EPA is granting final approval to Missouri rule 10 CSR 10–6.280 for which approval was proposed in the **Federal Register** on February 6, 1996.

**II. 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. 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 preexisting 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 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule 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 Executive Order 13132 (64 FR 43255, August 10, 1999), because it 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 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, our 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), we have 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) 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 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. We will submit a report containing this rule and other required information to the United States Senate, the United States 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 July 16, 2001. 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 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 26, 2001.

**William A. Spratlin,**

*Acting 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 adding in numerical order the entry for ''10–6.280'' 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** | | | | |
| * | * | * | * | * |
| 10–6.280 | Compliance Monitoring Usage | 12/30/94 | May 16, 2001 66 FR 27032 | |
| * | * | * | * | * |

* * * * *

[FR Doc. 01–12356 Filed 5–15–01; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 63

**[FRL–6978–8]**

## Approval of Section 112(l) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry; State of New Hampshire

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

**ACTION:** Direct final rule.

**SUMMARY:** Pursuant to section 112(l) of the Clean Air Act (CAA), New Hampshire Department of Environmental Services (NH DES) requested approval to implement and enforce State permit terms and conditions that substitute for the National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry and the National Emissions Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-chemical Pulp Mills. The Environmental Protection Agency (EPA) has reviewed this request and has found that it satisfies all of the requirements necessary to qualify for approval. Thus, EPA is hereby granting NH DES the authority to implement and enforce alternative requirements in the form of title V permit terms and conditions after EPA has approved the state's alternative requirements.

**DATES:** This rule is effective on July 16, 2001 without further notice, unless EPA receives adverse comments by June 15, 2001. If EPA receives such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Written comments must be submitted to Steven Rapp, Manager, Air Permits Program Unit, Office of Ecosystem Protection (mail code CAP) at the EPA New England office listed below. Copies of NH DES's request for approval are available for public inspection at the following locations:

U.S. Environmental Protection Agency, EPA-New England, Office of Ecosystem Protection, One Congress Street, Suite 1100, Boston, MA 02114–2023.

New Hampshire Department of Environmental Services, Air Resources Division, 6 Hazen Drive, Concord, NH 03302–0095.

**FOR FURTHER INFORMATION CONTACT:** Susan Lancey, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023, Telephone: (617) 918–1656.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On April 15, 1998, the Environmental Protection Agency (EPA) promulgated the National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry (see 63 FR 18617), which has been codified in 40 CFR part 63, subpart S, ''National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry'' (Pulp and Paper MACT I). Subsequently, on January 12, 2001, EPA promulgated the National Emission Standard for Hazardous Air Pollutants from the Pulp and Paper Industry (see 66 FR 3180) which has been codified in 40 CFR part 63, subpart MM, ''National Emission Standards for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semichemical Pulp Mills' (Pulp and Paper MACT II). The only sources currently subject to subpart S and subpart MM in New Hampshire are Groveton Paper Board Inc. of Groveton, NH (Groveton) and Pulp & Paper of America, LLC of Berlin, NH (Pulp & Paper of America).

On January 23, 2001, New Hampshire Department of Environmental Services (NH DES) requested delegation of subpart S and subpart MM under § 63.94 for both Groveton and Pulp & Paper of America. EPA received the request on January 30, 2001. NH DES requested to implement and enforce approved alternative title V permit terms and conditions in place of the otherwise applicable requirements of subpart S and subpart MM under the process outlined in 40 CFR 63.94. As part of its request to implement and enforce approved alternative title V permit terms and conditions in place of the otherwise applicable Federal section 112 standards, NH DES also requested approval of its demonstration that NH DES has adequate authorities and resources to implement and enforce all Clean Air Act (CAA) section 112 programs and rules. The purpose of this demonstration is to streamline the approval process for future CAA section 112(l) applications.

### II. EPA Action

Under CAA section 112(l), EPA may approve state or local rules or programs to be implemented and enforced in place of certain otherwise applicable CAA section 112 Federal rules, emission standards, or requirements. The Federal regulations governing EPA's approval of state and local rules or programs under section 112(l) are located at 40 CFR part 63, subpart E (*see* 65 FR 55810, dated September 14, 2000). Under these regulations, a local air pollution control agency has the option to request EPA's approval to substitute alternative