

Authority: 42 U.S.C. 7401 et seq.

Subpart EE—New Hampshire

2. Section 52.1520 is amended by adding paragraph (c)(68) to read as follows:

§ 52.1520 Identification of plan.

(c) * * *
 (68) Revisions to the State Implementation Plan submitted by the New Hampshire Air Resources Division on June 28, 1996 and April 15, 2002.

(i) Incorporation by reference.
 (A) Order ARD-00-001 issued by the New Hampshire DES to Anheuser-

Busch Incorporated, effective April 15, 2002.

(B) Env-A 1204.27, “Applicability Criteria and Compliance Options for Miscellaneous and Multi-category Stationary VOC Sources,” effective August 21, 1995, is granted full approval for the New Hampshire portion of the eastern Massachusetts serious ozone nonattainment area.

(ii) Additional materials.

(A) Letter from the DES, dated April 15, 2002, submitting revised Anheuser-Busch order to EPA as a SIP revision and withdrawing previous submittal for this facility dated June 20, 2000.

(B) Letter from the DES, dated March 22, 2002, containing information on New Filcas of America.

3. In § 52.1525, Table 52.1525 is amended by adding an entry for “Env-A 1204.27” in the State citation chapter column immediately following the entry for “CH air 1204, Part Env-A 1204 (except 1204.9)” and by adding an entry for “Order ARD-00-001” in the same column immediately following the entry for “Order ARD 98-001” to read as follows:

§ 52.1525 EPA—approved New Hampshire state regulations

* * * * *

TABLE 52.1525.—EPA—APPROVED RULES AND REGULATIONS—NEW HAMPSHIRE

Title/subject	State citation chapter	Date adopted by State	Date approved by EPA	Federal Register citation	52.1520	Explanation
Applicability Criteria and Compliance Options for Miscellaneous and Multi-category Stationary VOC Sources.	Env-A 1204.27	8/21/95 ..	July 23, 2002 ..	[Insert FR citation from published date].	(c)(68)	Rule fully approved for the New Hampshire portion of the eastern Massachusetts serious ozone nonattainment area.
Source Specific Order	Order ARD-00-001	4/15/02 ..	July 23, 2002 ..	[Insert FR citation from published date].	(c)(68)	VOC RACT for Anheuser-Busch.

¹ These regulations are applicable statewide unless otherwise noted in the Explanation section.
² When the New Hampshire Department of Environmental Services was established in 1987, the citation chapter title for the air regulations changed from CH Air to Env-A.

[FR Doc. 02-18396 Filed 7-22-02; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[MN 67-01-7292(a); FRL-7248-9]

Approval of Section 112(l) Program of Delegation; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving, through a “direct final” procedure, a request from Minnesota for delegation of the Federal air toxics program pursuant to section 112(l) of the Clean Air Act (Act). The State’s mechanism of delegation involves the straight delegation of all existing and future section 112 standards unchanged from the Federal standards. The actual

delegation of authority of individual standards, except standards addressed specifically in this action, will occur through a procedure set forth in a Memorandum of Agreement (MOA) between the Minnesota Pollution Control Agency (MPCA) and EPA. This request for approval of a mechanism of delegation applies only to those part 70 sources subject to a section 112 standard in Minnesota. It does not include those sources in Indian country.

DATES: The “direct final” is effective on September 23, 2002, unless EPA receives adverse or critical written comments by August 22, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: Robert Miller, Chief, Permits and Grants Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State’s submittal and other supporting information used in developing the approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR-18J, Chicago, Illinois 60604. Please contact Robert Miller at (312) 353-0396 to arrange a time if inspection of the submittal is desired.

FOR FURTHER INFORMATION CONTACT: Bryan Holtrop, AR-18J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6204, holtrop.bryan@epa.gov or, Rachel Rineheart, AR-18J, 77 West Jackson Boulevard, Chicago, Illinois 60604, at (312) 886-7017, rineheart.rachel@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” are used we mean EPA.

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I. Why Are We Delegating This Program to MPCA?

Section 112(l) of the Act enables the EPA to delegate Federal air toxics programs or rules to be implemented by States in State air toxics programs. The Federal air toxics program implements the requirements found in section 112 of the Act pertaining to the regulation of hazardous air pollutants. Delegation of an air toxics program is granted by the EPA if the Agency finds that the State program: (1) Is "no less stringent" than the corresponding Federal program or rule, (2) the State has adequate authority and resources to implement the program, (3) the schedule for implementation and compliance is sufficiently expeditious, and (4) the program is otherwise in compliance with Federal guidance. Once approval is granted, the air toxics program can be implemented and enforced by State agencies, as well as EPA.

II. What Is the History of This Request for Delegation?

On December 12, 1995, Minnesota submitted to EPA a request for delegation of authority to implement and enforce the air toxics program under section 112 of the Act. On February 6, 1996, EPA found the State's submittal complete. This request for delegation included both sources subject to the operating permit requirements of 40 CFR part 70 and sources not subject to the permitting requirements of part 70. On July 26, 2001, Minnesota revised the original request for delegation, and is now seeking delegation only for sources subject to part 70. In this notice EPA is taking final action to approve the program of delegation for Minnesota of parts 61 and 63 standards for all part 70 sources, except for those in Indian country.

III. How Will MPCA Implement This Delegation?

Requirements for approval, specified in section 112(l)(5), require that a State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule. These requirements are also

requirements for an adequate operating permits program under part 70 (§ 70.4). In a December 4, 2001 rulemaking, EPA promulgated a final approval of the State of Minnesota's Operating Permit Program under part 70. Sources subject to the part 70 program are those sources that are operating pursuant to a part 70 permit issued by the State or a part 71 permit issued by EPA. Sources not subject to the part 70 program are those sources that are not required to obtain a part 70 permit under Title V of the Act from either the State, Tribes, or EPA (*see* 40 CFR 70.3). This action will provide a mechanism to delegate the authority to implement and enforce the section 112 air toxics program for sources subject to part 70 in the State of Minnesota.

The Minnesota program of delegation will not include delegation of section 112(r) authority. The program will, however, include the delegation of the 40 CFR part 63 general provisions to the extent that they are not reserved to the EPA and are delegable to the State.

As stated above, this notice constitutes EPA's approval of Minnesota's program of straight delegation of all existing and future air toxics standards, except for section 112(r) standards, as they pertain to part 70 sources. Straight delegation means that the State will not promulgate its own State rules for each section 112 standard promulgated by EPA, but will implement, adopt by reference, and enforce without change the section 112 standards promulgated by EPA. The Minnesota program of straight delegation will operate as follows: For a future section 112 standard for which MPCA intends to accept delegation, EPA will automatically delegate the authority to implement a section 112 standard to the State by letter. If MPCA does not intend to accept delegation of a standard, MPCA will notify EPA within 45 days of EPA final promulgation of the standard. Upon incorporation by reference of the Federal standard into the State Rules, EPA will delegate the authority to enforce the standard as well.

Minnesota will assume responsibility for the timely implementation and enforcement required by each standard, as well as any further activities agreed to by MPCA and EPA. Some activities necessary for effective implementation of a standard include receipt of initial notifications, recordkeeping, reporting, and generally assuring that sources subject to a standard are aware of its existence. When deemed appropriate, MPCA will utilize the resources of its Small Business Assistance Program to assist in general program implementation. The details of this

delegation mechanism will be set forth in a memorandum of agreement between EPA and MPCA, copies of which will be placed in the official file associated with this rulemaking.

IV. What Requirements Did MPCA Meet To Receive Today's Approval?

On November 26, 1993, EPA promulgated regulations to provide guidance relating to the approval of State programs under section 112(l) of the Act. 40 FR 62262. That rulemaking outlined the requirements of approval with respect to various delegation options. The requirements for approval pursuant to section 112(l)(5) of the Act, for a program to implement and enforce Federal section 112 rules as promulgated without changes, are found at 40 CFR 63.91. Any request for approval must meet all section 112(l) approval criteria, as well as all approval criteria of § 63.91. A more detailed analysis of the State's submittal pursuant to § 63.91 is contained in the Technical Support Documents, dated August 15, 2001, included in the official file for this rulemaking.

Under section 112(l) of the Act, approval of a State program is granted by the EPA if the Agency finds that: (1) The State program is "no less stringent" than the corresponding Federal program, (2) the State has adequate authority and resources to implement the program, (3) the schedule for implementation and compliance is sufficiently expeditious, and (4) the program is otherwise in compliance with Federal guidance.

V. How Did MPCA Meet the Approval Criteria?

EPA is approving Minnesota's mechanism of delegation because the State's submittal meets all requirements necessary for approval under section 112(l). The first requirement is that the program be no less stringent than the Federal program. The Minnesota program is no less stringent than the corresponding Federal program or rule because the State has requested straight delegation of all standards unchanged from the Federal standards.

Second, the State has shown that it has adequate authority and resources to implement the program. The authorities are contained in Attachment B of Minnesota's November 15, 1993, Title V submittal. Section 116.07, subdivision 4a of the Minnesota Statutes authorizes MPCA to issue construction and operating permits to part 70 sources of regulated pollutants to assure compliance with all applicable requirements of the Act. Sources subject to the part 70 program are those sources

that are operating pursuant to a part 70 permit issued by the State, local agency or EPA (part 71), whereas sources not subject to the part 70 program are those sources that are not required to obtain a Title V permit under Federal law from either the State, Tribes, or EPA. Minnesota has the authority under section 116 to include any conditions in an operating permit that are necessary to assure compliance with the Act (including section 112 requirements). Furthermore, Minnesota has the authority to perform inspections, request compliance information, and to bring civil and criminal enforcement actions to recover penalties and fines. (Specifically, the statutory language for the above authorities are found in Minnesota Statutes sections 115.071, 116.091, 116.11, 609.671, and 645.24). Adequate resources will be obtained through State funds, Section 105 grant monies awarded to States by EPA, and through Title V fees that can be used to fund acceptable activities with respect to part 70 sources.

Third, upon promulgation of a standard, Minnesota will immediately begin activities necessary for timely implementation of the standard. These activities will involve identifying sources subject to the applicable requirements and notifying these sources of the applicable requirements. Such schedule is sufficiently expeditious for approval.

Fourth, the Minnesota mechanism for straight delegation is not contrary to Federal guidance.

VI. How Will Applicability Determinations Under Section 112 Be Made?

In approving this delegation, the State will obtain concurrence from EPA on any matter involving the interpretation of section 112 of the Clean Air Act or 40 CFR part 61 and 63 to the extent that implementation, administration, or enforcement of these sections have not been covered by EPA determinations or guidance.

VII. What Is Today's Final Action?

The EPA is promulgating final approval of the December 12, 1995, request and subsequent revision by the State of Minnesota of a mechanism for straight delegation of section 112 standards unchanged from Federal standards because the request meets all requirements of 40 CFR 63.91 and section 112(l) of the Act. After the effective date of this document and upon signing of the MOA, the implementation and enforcement of all existing section 112 standards, excluding section 112(r), which have

been incorporated into the Minnesota Rules, are delegated to the State of Minnesota (specifically 40 CFR part 63, subpart H "National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks," 40 CFR part 63, subpart I "National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks," 40 CFR part 63, subpart L "National Emission Standards for Coke Oven Batteries," 40 CFR part 63, subpart M "National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities," 40 CFR part 63, subpart N "National Emission Standards for Chromium Emissions from Hard and Decorative Chromium electroplating and Chromium Anodizing Tanks," 40 CFR part 63, subpart O "Ethylene Oxide Emissions Standards for Sterilization Facilities," 40 CFR part 63, subpart Q "National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers," 40 CFR part 63, subpart R "National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)," 40 CFR part 63, subpart T "National Emission Standards for Halogenated Solvent Cleaning," 40 CFR part 63, subpart U "National Emission Standards for Hazardous Air Pollutant Emissions Group I Polymers and Resins," 40 CFR part 63, subpart W "National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production," 40 CFR part 63, subpart X, "National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting," 40 CFR part 63, subpart Y "National Emission Standards for Marine Tank Vessel Loading Operations," 40 CFR part 63, subpart CC "National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries," 40 CFR part 63, subpart DD "National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations," 40 CFR part 63, subpart EE "National Emission Standards for Magnetic Tape Manufacturing Operations," 40 CFR part 63, subpart GG "National Emission Standards for Aerospace Manufacturing and Re-Work Facilities," 40 CFR part 63, subpart II "National Emission Standards for Shipbuilding and Ship Repair (Surface Coating)," 40 CFR part 63, subpart JJ "National Emission Standards for Wood Furniture Manufacturing Operations," 40 CFR part 63, subpart KK "National Emission Standards for the Printing and Publishing Industry," 40 CFR part 63, subpart OO "National Emission

Standards for Tanks—Level 1," 40 CFR part 63, subpart PP "National Emission Standards for Containers," 40 CFR part 63, subpart QQ "National Emission Standards for Surface Impoundments," 40 CFR part 63, subpart RR "National Emission Standards for Individual Drain Systems," 40 CFR part 63, subpart VV "National Emission Standards for Oil-Water Separators and Organic-Water Separators," and 40 CFR part 63, subpart JJJ "National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins"). As for the existing section 112 standards which have not yet been incorporated into the Minnesota Rules, the implementation authority for these standards is delegated to the State of Minnesota after the effective date of this action and upon signing of the MOA. The enforcement authority and the future delegation of the section 112 standards to the State will occur according to the procedures outlined in the MOA.

This delegation does not include authority over sources in Indian country subject to section 112. Under the Act such Indian country sources are regulated directly by the EPA, until such time as a Tribe requests and has approved its own section 112 program or has the Federal program delegated to it as a part of its tribal implementation plan. See the Tribal Authority Rule, 63 FR 7253 (February 12, 1998). At this time no Tribe in Minnesota has requested or received any authorities under section 112, and EPA is directly implementing and enforcing the section 112 program in Indian country in Minnesota.

Effective immediately, all notifications, reports and other correspondence required under section 112 standards for part 70 sources should be sent to the State of Minnesota rather than to the EPA, Region 5, in Chicago. Affected sources should send this information to: *Compliance Tracking Coordinator, Majors and Remediation Division, MPCA, 520 Lafayette Road, St. Paul, Minnesota 55155-4194*. Sources not subject to part 70 or that are on a tribal reservation should send all notifications, reports and other correspondence required under section 112 standards to: *Chief, Air Enforcement and Compliance Assurance Branch (AE-17), Air and Radiation Division, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604*.

EPA is publishing this action without prior proposal because EPA views this action 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 State Plan should adverse or critical written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comment by August 22, 2002. Should EPA receive such comments, it 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 no such comments are received, the public is advised that this action will be effective on September 23, 2002.

VIII. 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 actions as meeting Federal requirements and imposes no additional requirements beyond those Federal requirements currently being imposed by EPA. Accordingly, the Administrator certifies that this action 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 delegation approves pre-existing Federal requirements already required 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 action 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 plan for implementing

Federal standards, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. 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 a state's request for section 112 authority, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 section 112 authority request for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a section 112 authority request, to use VCS in place of a section 112 authority request that otherwise satisfies the provisions of the Clean Air Act. 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 delegation 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 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 September 23, 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 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401, *et seq.*

Dated: June 27, 2002.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 02-18397 Filed 7-22-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA081-FTA; FRL-7250-5]

Finding of Failure To Attain; California-San Joaquin Valley Nonattainment Area; PM-10

AGENCY: Environmental Protection Agency (EPA).

ACTION:

SUMMARY: EPA is today finding that the San Joaquin Valley did not attain the 24-hour and annual particulate matter (PM-10) National Ambient Air Quality Standards (NAAQS) by the deadline mandated in the Clean Air Act (CAA), December 31, 2001.

In response to this finding, the State of California must submit by December 31, 2002 revisions to the California State Implementation Plan (SIP) that provide for attainment of the national PM-10 standards in the San Joaquin Valley and achieve five percent annual reductions in PM-10 or PM-10 precursor emissions as required by CAA section 189(d).

EFFECTIVE DATE: This finding is effective on August 22, 2002.

ADDRESSES: A copy of this final rule is available in the air programs section of EPA Region 9's website, <http://www.epa.gov/region09/air>. The docket for this rulemaking is available for inspection during normal business hours at EPA Region 9, Planning Office, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105. A reasonable fee may be charged for copying parts of the docket. Please call (415) 972-3980 for assistance.

FOR FURTHER INFORMATION CONTACT: Celia Bloomfield (415) 947-4148 or Steven Barhite (415) 972-3980, Planning Office Chief (AIR-2), Air Division, EPA Region 9, 75 Hawthorne