

Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because we are establishing a temporary safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

2. Add a new § 165.T11-069 to read as follows:

#### § 165.T11-069 Safety Zone; Ventura Offshore Gran Prix, Ventura, California.

(a) *Location.* The following described area constitutes a temporary safety zone: all waters of Pierpont Bay near Ventura, California, from surface to bottom, encompassed by lines connecting points beginning at latitude 34°15'42" N, longitude 119°16'40" W; thence to 34°16'17" N, 119°17'32" W; thence to 34°16'17" N, 119°19'25" W; thence to 34°14'31" N, 119°19'25" W; thence to 34°14'31" N, 119°16'40" W; and thence returning to the point of origin. (Datum: NAD 83).

(b) *Effective period.* This section is effective from 12 p.m. to 3 p.m. on September 29, 2002.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within the safety zone is prohibited unless authorized by the Coast Guard Captain of the Port, Los Angeles-Long Beach, or his or her designated representative.

(2) Persons desiring to transit the area of the safety zone may contact the Captain of the Port at telephone number (800) 221-8724 or the Patrol Commander on VHF-FM channel 16 (156.8 MHz). If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

Dated: August 23, 2002.

**J.M. Holmes,**

*Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach, California.*

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[KS 162-1162a; FRL-7270-4]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the state of Kansas. This revision updates the state's air monitoring surveillance plan to include

the particulate matter provisions EPA added to the Federal requirements in 1997. Approval of the state's submittal will ensure that it is consistent and current with the Federal requirements.

**DATES:** This direct final rule will be effective October 29, 2002, unless EPA receives adverse comments by September 30, 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 Kim Johnson, 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:** Kim Johnson at (913) 551-7975.

#### 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?**

Section 110(a)(2)(C) of the CAA requires SIPs to contain provisions for ambient air quality monitoring and data reporting. The CAA also requires, in section 319, that EPA establish monitoring criteria to be followed uniformly across the nation and that a national monitoring network be established. The EPA promulgated regulations to implement section 319 on May 10, 1979. This rulemaking established part 58 of Title 40 of the

Code of Federal Regulations, entitled "Ambient Air Quality Surveillance." Section 58.20 establishes requirements for state ambient air quality monitoring networks.

On July 18, 1997 (62 FR 38763), we updated the provisions of 40 CFR 58.20 at the same time as we adopted new national ambient air quality standards (NAAQS) for ozone and particulate matter. In order to maintain consistency with the Federal requirements, Kansas subsequently revised its Section E—Monitoring Plan to address these revisions. This update has been submitted to us for approval as a revision to the Kansas SIP.

The state's submittal incorporates the provisions which were added in 1997. This includes § 58.20(f) pertaining to PM<sub>10</sub> and PM<sub>2.5</sub> monitoring network descriptions, and § 58.20(g) pertaining to maintaining a list of all PM<sub>2.5</sub> monitoring locations including State and Local Air Monitoring Stations (SLAMS), National Air Monitoring Stations (NAMS), Photochemical Assessment Monitoring Stations (PAMS), and population-oriented Special Purpose Monitors (SPMs) that are included in the state's PM monitoring network description. Incorporation of these provisions into the state's monitoring plan makes it consistent with the Federal monitoring requirements.

#### **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 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:* We are approving a revision to the Kansas SIP which updates its ambient air monitoring plan.

#### **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 (Public Law 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 29, 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.

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 R—Kansas**

2. In § 52.870 the table in paragraph (e) is amended by adding an entry at the end of the table.

The addition reads as follows:

**§ 52.870 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

**EPA APPROVED KANSAS NONREGULATORY PROVISIONS**

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Comments
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Air monitoring plan .....	Statewide .....	1/16/02	August 30, 2002 [FR cite].	

Dated: August 12, 2002.  
**William A. Spratlin,**  
*Acting Regional Administrator, Region 7.*  
[FR Doc. 02-22087 Filed 8-29-02; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**  
[FRL-7207-7]

**National Priorities List for Uncontrolled Hazardous Waste Sites**

**AGENCY:** Environmental Protection Agency.  
**ACTION:** Notice of Clarification of United States Avenue Burn site.

On July 22, 1999, the Environmental Protection Agency ("EPA") promulgated a final rule adding the United States Avenue Burn site, located in Gibbsboro, NJ, on the National Priorities List ("NPL") (64 FR 39878). On September 21, 1999, the Sherwin-Williams Company filed a petition for review of that rule in the United States Court of Appeals for the District of Columbia Circuit ("D.C. Circuit"). *Sherwin-*

*Williams Company v. United States Environmental Protection Agency*, Case No. 99-1388 (D.C. Cir. 1999). EPA and Sherwin-Williams thereafter entered into negotiations to settle this litigation, and on July 10, 2002 the parties entered into a formal settlement agreement.

In response to this settlement agreement, the DC Circuit Court issued an order remanding the United States Avenue Burn listing decision to EPA on August 2, 2002. In accordance with the Court's remand order and the settlement agreement, EPA is providing notice clarifying that the United States Avenue Burn site, as listed on the NPL (40 CFR part 300, Appendix B), does not include the Railroad Track Area. However, the United States Avenue Burn site remains on the NPL.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Griesert, phone (703) 603-8888, State, Tribal and Site Identification Center; Office of Emergency and Remedial Response (mail code 5204G); U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue NW., Washington, DC 20460.

Dated: August 23, 2002.  
**Marianne Lamont Horinko,**  
*Assistant Administrator, Office of Solid Waste and Emergency Response.*  
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**BILLING CODE 6560-50-P**

**NATIONAL SCIENCE FOUNDATION**

**45 CFR Part 672**

**Antarctic Conservation Act of 1978, Civil Monetary Penalties**

**AGENCY:** National Science Foundation.  
**ACTION:** Final rule with a request for comments.

**SUMMARY:** The National Science Foundation (NSF) is adjusting civil monetary penalties that may be imposed for violations of the Antarctic Conservation Act of 1978 to reflect inflation since the last effective adjustment.

**DATES:** This rule is effective September 30, 2002.

Comments, however, are welcome at any time and will be considered in making future revisions.