TABLE 7 TO SUBPART NNNNNN OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNNN—Continued

[As stated in §63.9065, you must comply with the applicable General Provisions requirements according to the following]

<table>
<thead>
<tr>
<th>Citation</th>
<th>Requirement</th>
<th>Applies to subpart NNNNN</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>§ 63.10(c)</td>
<td>Additional recordkeeping requirements for sources with CMS.</td>
<td>Yes</td>
<td>Applies as modified by §63.9005 (d).</td>
</tr>
<tr>
<td>§ 63.10(d)(1)</td>
<td>General reporting requirements</td>
<td>Yes</td>
<td>§63.9050 specifies additional reporting requirements.</td>
</tr>
<tr>
<td>§ 63.10(d)(2)</td>
<td>Performance test results</td>
<td>Yes</td>
<td>§63.9045(f) specifies submission date.</td>
</tr>
<tr>
<td>§ 63.10(d)(3)</td>
<td>Opacity or visible emissions observations</td>
<td>No</td>
<td>Subpart NNNNN does not specify opacity or visible emission standards.</td>
</tr>
<tr>
<td>§ 63.10(d)(4)</td>
<td>Progress reports for sources with compliance extensions.</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>§ 63.10(d)(5)</td>
<td>SSIM reports</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>§ 63.10(e)(1)</td>
<td>Additional CMS reports—general</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>§ 63.10(e)(2)</td>
<td>Results of CMS performance evaluations</td>
<td>No</td>
<td>Subpart NNNNN does not require the use of CMS.</td>
</tr>
<tr>
<td>§ 63.10(e)(3)</td>
<td>Excess emissions/CMS performance reports</td>
<td>No</td>
<td>Subpart NNNNN does not require the use of CMS.</td>
</tr>
<tr>
<td>§ 63.10(e)(4)</td>
<td>Continuous opacity monitoring system data reports</td>
<td>No</td>
<td>Facilities subject to subpart NNNNN do not use flares as control devices.</td>
</tr>
<tr>
<td>§ 63.10(f)</td>
<td>Recordkeeping/reporting waiver</td>
<td>Yes</td>
<td>§63.9070 lists those sections of subparts NNNNN and A that are not delegated.</td>
</tr>
<tr>
<td>§ 63.11</td>
<td>Control device requirements—applicability</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>§ 63.12</td>
<td>State authority and delegations</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>§ 63.13</td>
<td>Addresses</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>§ 63.14</td>
<td>Incorporation by reference</td>
<td>Yes</td>
<td>Subpart NNNNN does not incorporate any material by reference.</td>
</tr>
<tr>
<td>§ 63.15</td>
<td>Availability of information/confidentiality</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

ENVIROMENTAL PROTECTION AGENCY

40 CFR Part 81

[PA209–4302; FRL–8055–8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Hazelwood SO2 Nonattainment and the Monongahela River Valley Unclassifiable Areas to Attainment and Approval of the Maintenance Plan; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correction.

SUMMARY: On July 21, 2004 (69 FR 43522) EPA published a Federal Register notice redesignating the Hazelwood SO2 Nonattainment Area and the Monongahela River Valley Unclassifiable Area to attainment of the sulfur dioxide (SO2) national ambient air quality standards (NAAQS). In the July 21, 2004 final rulemaking document, two areas were inadvertently omitted from the revised designated area listing. This document corrects that error.

DATES: Effective Date: April 7, 2006.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, or by e-mail at wentworth.ellen@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” or “our” are used we mean EPA. On July 21, 2004 (69 FR 43522), we published a final rulemaking announcing our approval of the redesignation of the Hazelwood SO2 Nonattainment Area and the Monongahela River Valley Unclassifiable Area, located in the Allegheny Air Basin in Allegheny County to attainment of the NAAQS for SO2 and approved a combined maintenance plan for both areas as a State Implementation Plan (SIP) revision. This action pertained to the redesignation of the Hazelwood and Monongahela River Valley areas V.(B)(1) and V.(B)(2), respectively, of part 81, section 81.339, to attainment. This action was not intended to affect the area within a two-mile radius of the Bellevue monitor V.(B)(3), or the remaining portions of the Allegheny County Air Basin V.(B)(4). In the July 21, 2004 rulemaking document, these areas were inadvertently removed in the Pennsylvania SO2 Table in part 81, section 81.339. Therefore, this correction action restores the entries which were inadvertently removed. Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today’s rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and is therefore 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)). Because the agency has made a “good cause” finding that this action
is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the SUPPLEMENTARY INFORMATION section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13132 (64 FR 43255, August 10, 1999). 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 prior to publication of the rule in the Federal Register.

This correction to 40 CFR 81.339 for Pennsylvania is not a “major rule” as defined by 5 U.S.C. 804(2).


Donald S. Welsh,
Regional Administrator, Region III.

40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:
   Authority: 42 U.S.C. 7401 et seq.

Subpart C—Section 107 Attainment Status Designations

2. In § 81.339, the table for “Pennsylvania—SO₂,” is amended by revising the entry for the Allegheny County Air Basin to read as follows:

§ 81.339 Pennsylvania.

<table>
<thead>
<tr>
<th>Designated area</th>
<th>Does not meet primary standards</th>
<th>Does not meet secondary standards</th>
<th>Cannot be classified</th>
<th>Better than national standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>V. Southwest Pennsylvania Intrastate AQCR:</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>(B) Allegheny County Air Basin:</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>(1) The areas within a two-mile radius of the Hazelwood monitor</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) That portion of Allegheny County within an eight-mile radius of the Duquesne Golf Association Club House in West Mifflin excluding the nonattainment area (#1)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(3) The area within a two-mile radius of the Bellevue monitor</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(4) The remaining portions of the Allegheny County Air Basin</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Pennsylvania. —SO₂
DEPARTMENT OF TRANSPORTATION
National Highway Traffic Safety Administration

49 CFR Part 571
[Docket No. NHTSA–2005–22093]
RIN 2127–AJ31

Federal Motor Vehicle Safety Standards; Theft Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: Our safety standard on theft protection specifies vehicle performance requirements intended to reduce the incidence of crashes resulting from theft and accidental rollaway of motor vehicles. As a result of technological advances in the area of theft protection, the terminology used in the regulatory text of the Standard has become outdated and confusing with respect to key-locking systems that employ electronic codes to lock and unlock the vehicle, and to enable engine activation. This final rule amends and reorganizes the regulatory text of the Standard so that it better correlates to modern theft protection technology and reflects the agency’s interpretation of the existing requirements. The new language does not impose any new substantive requirements on vehicle manufacturers.

DATES: This rule becomes effective September 1, 2007. Early voluntary compliance is permitted.

Petitions: Petitions for reconsideration of the final rule must be received no later than May 22, 2006, and should refer to this docket and the notice number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 7th Street, SW., Room 5220, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For technical issues: Ms. Gayle Dalrymple, Office of Crash Avoidance Standards, NVS–123, NHTSA, 400 7th Street, SW., Washington, DC 20590. Telephone: (202) 366–5559. E-mail: Gayle.Dalrymple@nhtsa.dot.gov.

For legal issues: Mr. George Feygin, Office of the Chief Counsel, NCC–112, NHTSA, 400 7th Street, SW., Washington, DC 20590. Telephone: (202) 366–5834. E-mail: George.Feygin@nhtsa.dot.gov.

SUPPLEMENTARY INFORMATION:

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B. Executive Order 13132 (Federalism)
C. Executive Order 13045
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E. Regulatory Flexibility Act
F. Paperwork Reduction Act
G. National Technology Transfer and Advancement Act
H. Unfunded Mandates Reform Act
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I. Background

FMVSS No. 114, Theft protection, specifies vehicle performance requirements intended to reduce the incidence of crashes resulting from theft and accidental rollaway of motor vehicles. The standard applies to all passenger cars, and to trucks and multipurpose passenger vehicles with a GVWR of 4536 kilograms (10,000 pounds) or less. The standard first went into effect on January 1, 1970.1

The purpose of the standard was to prevent crashes caused by unauthorized use of unattended motor vehicles. Thus, the standard sought to ensure that the vehicle could not be easily operated without the key, and that the vehicle operator would not forget to remove the key from the ignition system upon exiting the vehicle.

In response to the problem of accidental rollaway crashes resulting from children inadvertently moving the automatic transmission lever to a neutral position when a stationary vehicle is parked on a slope, NHTSA later amended FMVSS No. 114 to require that the automatic transmission lever be locked in the”park” position before the key can be removed from the ignition system.2 Subsequently, NHTSA amended these new requirements to permit an override device that would enable the vehicle operator to remove the key without the transmission being located in “park,” and to move the transmission lever without using the key, under certain circumstances. The purpose of these override provisions was to address certain situations when it may be necessary to remove the key without shifting the transmission lever because the vehicle has become disabled.3

While FMVSS No. 114 evolved to address not only theft protection, but also accidental rollaway prevention, the terminology used in the regulatory text has remained unchanged since its introduction more than 35 years ago. However, theft protection technology has advanced considerably during that time. As a result, certain provisions of the Standard have become increasingly ambiguous when applied to modern theft protection technology not contemplated by the Standard when it first went into effect.

For example, a number of vehicles now feature electronic systems. Typically, this involves a card or a similar device that is carried in an occupant’s pocket or purse. The card carries an electronic code that acts as the key when it is transmitted to the vehicle’s onboard locking system. The vehicle has a sensor that automatically unlocks the door and allows the vehicle operator to activate the engine, when it receives the code. The code-carrying device (i.e., card or otherwise) never has to leave the vehicle operator’s pocket or purse and is not inserted into the ignition module.

In response to manufacturers’ requests, NHTSA issued a series of interpretation letters explaining how the Standard applied to various key-locking systems that did not utilize conventional keys, but instead relied on electronic codes to lock and unlock the vehicle, and to enable engine activation.

II. Recent Letters of Interpretation Regarding FMVSS No. 114

As noted above, the agency has received several requests for legal interpretation of the requirements of FMVSS No. 114, as they apply to key-locking systems using various remote access devices. In response, the agency has stated that the electronic code transmitted from a remote device to the vehicle can be considered a “key” for the purposes of FMVSS No. 114.4 We have also elaborated on how other provisions of the standard apply to electronic codes. For example, the agency stated that the narrow provisions related to electrical failure do not apply to electronically coded cards or other means used to enter an electronic key code into the locking system because those provisions were specifically crafted in the context of traditional

1 See 33 FR 6471 (April 24, 1968).
3 See 56 FR 12464 (March 26, 1991).