

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035 and 2071; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1.

- 2. In § 110.195, redesignate paragraph (c)(7) as (c)(8) and add a new paragraph (c)(7) to read as follows:

§ 110.195 Mississippi River below Baton Rouge, LA, including South and Southwest Passes.

* * * * *

(c) * * *

(7) Vessels anchored in the Lower Kenner Bend Anchorage are prohibited from using or exercising the ship's hold cargo cranes. Vessels in this anchorage must keep the ship's hold cargo gear in the down and hawsed position, as rigged for sea transits. Deck-mounted cranes, deck booms and stiff legs may be used to take on ships stores and spare parts and may be used to move manifold hoses.

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Dated: October 11, 2006.

J.R. Whitehead,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. E6–18086 Filed 10–27–06; 8:45 am]

BILLING CODE 4910–15–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2005–11]

Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

AGENCY: Copyright Office, Library of Congress.

ACTION: Interim Rule.

SUMMARY: The Librarian of Congress is extending, on an interim basis, the existing classes of works with respect to which the prohibition against circumvention of technological measures that effectively control access to copyrighted works shall not apply to persons who engage in noninfringing uses.

DATES: *Effective Date:* October 28, 2006.

FOR FURTHER INFORMATION CONTACT: David Carson, General Counsel, Copyright Office, GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: Section 1201(a)(1) of the copyright law prohibits

the circumvention of technological measures that control access to works protected by copyright. It also provides that every three years, the Register of Copyrights is to conduct a rulemaking proceeding to determine whether users of particular classes of copyrighted works are, or in the next three years are likely to be, adversely affected by that prohibition in their ability to make noninfringing uses of copyrighted works. That determination is made by the Librarian of Congress upon the recommendation of the Register of Copyrights. Section 1201(a)(1)(D) provides that “The Librarian shall publish any class of copyrighted works for which the Librarian has determined, pursuant to the rulemaking conducted under subparagraph (C), that noninfringing uses by persons who are users of a copyrighted work are, or are likely to be, adversely affected, and the prohibition contained in subparagraph (A) shall not apply to such users with respect to such class of works for the ensuing 3–year period.”

The Register of Copyrights is conducting the third of these triennial rulemaking proceedings and is in the final stages of making her recommendation to the Librarian of Congress. The rulemaking conducted in 2003 identified four classes of works to be subject to exemption from the prohibition on circumvention for the period beginning October 28, 2003, and ending October 27, 2006. Because the Register will not be able to present her recommendation to the Librarian of Congress before October 27, it is necessary to extend the effective dates of the existing regulation identifying those classes of works until the time that the Librarian acts upon the recommendation of the Register. It is anticipated that this extension will be in effect for no more than a few weeks.

Accordingly, the Register of Copyrights recommends to the Librarian of Congress that the existing regulation, codified at 37 CFR 201.40(b), be amended on an interim basis to strike the reference to the October 27, 2006, termination date for the list of classes of works identified in the regulation.

Dated: October 25, 2006

Marybeth Peters

Register of Copyrights

The Librarian of Congress accepts the recommendation of the Register of Copyrights and adopts the following interim rule.

List of Subjects in 37 CFR Part 201

Cable television, Copyright, Exemptions to prohibition against

circumvention, Literary works, Recordings, Satellites.

Interim Regulation

- For the reasons set forth in the preamble, 37 CFR part 201 is amended as follows:

PART 201—GENERAL PROVISIONS

- 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

§ 201.40 [Amended]

- 2. Section 201.40(b) introductory text is amended by removing “from October 28, 2003, through October 27, 2006,” and adding in its place “commencing October 28, 2003,”.

Dated: October 25, 2006.

James H. Billington,

Librarian of Congress.

[FR Doc. E6–18239 Filed 10–27–06; 8:45 am]

BILLING CODE 1410–30–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2005–LA–0003; FRL–8234–8]

Approval and Promulgation of Implementation Plans; Louisiana; Transportation Conformity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving a State Implementation Plan (SIP) revision submitted by the State of Louisiana on May 13, 2005. This revision serves to incorporate recent changes to the Federal conformity rule into the State conformity SIP. We are approving this SIP revision in accordance with section 176 and part D of the Clean Air Act.

DATES: This rule is effective on December 29, 2006 without further notice, unless EPA receives relevant adverse comment by November 29, 2006. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2005–LA–0003, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *EPA Region 6 “Contact Us” Web site:* <http://epa.gov/region6/>

r6coment.htm. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

• **E-mail:** Mr. Thomas Diggs at diggs.thomas@epa.gov. Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

• **Fax:** Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

• **Mail:** Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

• **Hand or Courier Delivery:** Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R06-OAR-2005-LA-0003. EPA's policy is that all comments received will be included in the public file without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption, and should be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15-cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas. The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment: Louisiana Department of Environmental Quality, Office of Environmental Assessment, 602 N. Fifth Street, Baton Rouge, Louisiana 70802.

FOR FURTHER INFORMATION CONTACT: Peggy Wade, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7247; fax number 214-665-7263; e-mail address wade.peggy@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

Outline

- I. What Action Is EPA Taking?
- II. What Is the Background for This Action?
- III. What Did the State Submit and How Did We Evaluate It?
- IV. Final Action
- V. Statutory and Executive Order Reviews

I. What Action Is EPA Taking?

On May 13, 2005, the Louisiana Department of Environmental Quality (LDEQ) submitted revisions to its SIP addressing changes to the transportation conformity rule [Louisiana Administrative Code (LAC) 33:III.1432] which were adopted by the State on March 20, 2005. This submission incorporates recent changes in the

Federal transportation conformity rule into the Louisiana conformity SIP. They are described in detail below. EPA is approving these revisions to the Louisiana conformity SIP.

II. What Is the Background for This Action?

The Federal Clean Air Act Amendments of 1990 (CAA) required each State to submit a revision to its SIP by November 25, 1994, establishing enforceable criteria and procedures for making conformity determinations for metropolitan transportation plans (MTP), transportation improvement programs (TIP), and projects funded by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA). The conformity rule assures that in air quality nonattainment or maintenance areas, projected emissions from transportation plans and programs stay within the motor vehicle emissions ceiling in the applicable attainment demonstration or maintenance SIP. The transportation conformity SIP enables the State to implement and enforce the Federal transportation conformity requirements at the State level per 40 CFR part 51 subpart T and 40 CFR part 93 subpart A.

EPA published final rules regarding conformity requirements on November 24, 1993 (58 FR 62188). Since then, EPA has made several amendments to the transportation conformity rules: August 7, 1995 (60 FR 40098), November 14, 1995 (60 FR 57179), August 15, 1997 (62 FR 43780), April 10, 2000 (65 FR 18911), August 6, 2002 (67 FR 50808), and July 1, 2004 (69 FR 40004). A minor correction to the July 1, 2004, rulemaking was published on July 20, 2004 (69 FR 43325). The State of Louisiana submitted an initial conformity SIP to EPA on November 23, 1994. This SIP was withdrawn, revised and re-submitted to EPA in October of 1998. We approved this SIP on December 29, 1999 (64 FR 72934), thus addressing the Federal rule amendments promulgated up to and including 1997, with the exception of certain provisions of the Federal rule that were deemed unlawful by the U.S. Court of Appeals for the District of Columbia Circuit (*Environmental Defense Fund v. EPA, et al.*, 167 F. 3d 641, DC Cir. 1999). These exceptions are addressed in the current SIP submission and are explained below. With the current revisions submitted by LDEQ, the State is aligning its rule to the Federal conformity rule for all amendments up to and including those promulgated on July 20, 2004.

Specifically, these revisions address the March 2, 1999, ruling, mentioned

above, by the United States Court of Appeals for the District of Columbia. The court's ruling affected provisions of the rule pertaining to the funding of MTPs and TIPs; use of motor vehicle emissions budgets (MVEB) prior to SIP approval; Federal transportation projects in areas without a conforming MTP and TIP; timing of conformity consequences following an EPA SIP disapproval; and use of submitted safety margins in areas with approved SIPs submitted prior to November 24, 1993.

More recent changes to the rule are inclusion of criteria and procedures for implementing conformity in accordance with the new National Ambient Air Quality Standards (NAAQS) addressing eight-hour ozone and particulate matter with an aerodynamic diameter less than or equal to 2.5 micrometers (PM_{2.5}). Changes relating to the implementation of these new standards are summarized below.

Changes to 40 CFR 93.101 add new definitions for one-hour ozone NAAQS; eight-hour ozone NAAQS; donut areas; isolated rural nonattainment and maintenance areas; and limited maintenance plans. Other Federal changes in the rule include provision of a one-year grace period before conformity is required in newly designated nonattainment areas and the addition of PM_{2.5} to the list of criteria pollutants (40 CFR 93.102). Changes to 40 CFR 93.104 were made to amend the point by which a conformity determination must be made following a State's submission of a control strategy SIP or maintenance SIP for the first time. This new provision requires conformity to be determined within 18 months of EPA's affirmative finding that the SIP's MVEBs are adequate. Changes to the grace period for transportation plan requirements in certain ozone and carbon monoxide nonattainment areas are made in 40 CFR 93.106. 40 CFR 93.109 has been changed to include the applicability of conformity for one-hour ozone nonattainment or maintenance areas until EPA revokes the one-hour ozone NAAQS and additional language related to conformity requirements for the new NAAQS for eight-hour ozone and PM_{2.5}. Changes to 40 CFR 93.110 clarify that conformity determinations must be based on the latest planning assumptions in place at the time a conformity analysis begins, rather than at the time of Department of Transportation's conformity finding. Some changes to the methodology of hot-spot analyses were made at 40 CFR 93.116. The rule revisions also made several changes with respect to the MVEB at 40 CFR 93.118 where the adequacy process is discussed. Changes

to 40 CFR 93.119 concern use of interim emissions tests in areas without adequate or approved MVEBs. In 40 CFR 93.120, the 120-day grace period previously allowed prior to a conformity freeze has been deleted so that a freeze will occur immediately upon the effective date of a SIP disapproval. EPA amended the rule at 40 CFR 93.121 so that regionally significant, non-Federal projects may no longer advance during a conformity lapse unless they have received all necessary State and local approvals prior to the lapse. EPA also made minor revisions to 40 CFR 93.117 and 40 CFR 93.124–93.126. For a comprehensive guide to all changes in the Federal rule, please see the reference document at <http://www.epa.gov/otaq/transp/conform/420b04013.pdf> or the transportation conformity final rule at 69 FR 40004.

III. What Did the State Submit and How Did We Evaluate It?

With this SIP submission, the State is incorporating by reference the changes made to the Federal conformity rule up to and including the final rule issued on July 1, 2004 (69 FR 40004), as corrected on July 20, 2004 (69 FR 43325), with the exception of the requirements of 40 CFR 93.105. The Federal requirements in 40 CFR 93.105 are addressed in the State rule at LAC 33:III.1434 and are not being changed with this revision.

IV. Final Action

EPA is approving the revisions to the Louisiana conformity SIP and corresponding amendments to LAC 33:III.14.B, Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved under Title 23 U.S.C or the Federal Transit Act. The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revisions if relevant adverse comments are received. The rule will be effective on December 29, 2006 without further notice unless we receive adverse comment by November 29, 2006. If we receive adverse comment we will publish a timely withdrawal in the **Federal Register** informing the public this rule will not take effect. We will address public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting

must do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of adverse comment.

V. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review." This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the 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). EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it approves a State program.

In reviewing SIP submissions under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), 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 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 Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 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 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 December 29, 2006. 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, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 5, 2006.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

■ 40 CFR part 52 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 T—Louisiana

■ 2. In § 52.970, the table in paragraph (c) entitled “EPA approved Louisiana regulations in the Louisiana SIP” under Chapter 14—Conformity, Subchapter B, section 1432 is revised to read as follows:

§ 52.970 Identification of plan.

* * * * *
(c) * * *

EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP

State citation	Title/subject	State approval date	EPA approval date	Explanation
*	*	*	*	*
Chapter 14 Conformity				
Subchapter B—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved under Title 23 U.S.C. or the Federal Transit Act				
*	*	*	*	*
Section 1432	Incorporation by Reference ..	March 20, 2005, LR31:640 ...	October 30, 2006 [Insert <i>FR</i> page number where document begins].	
*	*	*	*	*

[FR Doc. E6–18050 Filed 10–27–06; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2006–0548a; FRL–8225–5]

Revisions to the Nevada State Implementation Plan, Clark County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Clark County portion of the Nevada State Implementation Plan (SIP). These revisions concern particulate matter (PM) emissions from fugitive dust sources, such as open areas, unpaved roads, and construction activities. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on December 29, 2006 without further notice, unless EPA receives adverse comments by November 29, 2006. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2006–0548a, by one of the following methods:

1. *Federal eRulemaking Portal:* www.regulations.gov. Follow the on-line instructions.