

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS—Continued

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
(48) Revised Maintenance Plan of Doe Run Resource Recycling Facility near Buick, MO.	Dent Township in Iron County.	4/29/03	8/24/04, 69 FR 51953	Furnace daily throughput limits required to be consistent with rule 10 CSR 10–6.120. Annual production cap in Doe Run construction permit not affected by this rulemaking.
(49) Lead Maintenance Plan	Iron County (part) within boundaries of Liberty and Arcadia Townships.	1/26/04	10/29/04, 69 FR 63072.	
(50) Revision to Maintenance Plan for the 1-hour ozone standard in the Missouri portion of the Kansas City maintenance area for the second ten-year period.	Kansas City	10/28/05	6/26/06, 71 FR 36210.	
(51) CAA 110(a)(2)(D)(i) SIP—Interstate Transport.	Statewide	2/27/07	5/8/07, 72 FR 25085.	
(52) Submittal of the 2002 Base Year Inventory for the Missouri Portion of the St. Louis 8-hour ozone nonattainment area and Emissions Statement SIP.	St. Louis	6/15/06	5/31/07, 72 FR 30272.	
(53) Maintenance Plan for the 8-hour ozone standard in the Missouri portion of the Kansas City area.	Kansas City	5/23/07	8/9/07, 72 FR 44778	This plan replaces numbers (46) and (50).

[FR Doc. E9–23474 Filed 10–7–09; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2009–0593; FRL–8967–1]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Regulation To Reduce Idling of Heavy-Duty Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Delaware State Implementation Plan (SIP). The revision contains a regulation to reduce engine idling time for operation of most heavy-duty vehicles in the state, with certain exceptions. EPA is approving this revision to the Delaware SIP governing idling of heavy duty vehicles in the State of Delaware. EPA’s approval of this SIP revision is being done in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on December 7, 2009 without further notice, unless EPA receives adverse written comment by November 9, 2009. If EPA receives such comments, it will

publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2009–0593 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* fernandez.cristina@epa.gov.

C. *Mail:* EPA–R03–OAR–2009–0593, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID Number EPA–R03–OAR–2009–0593. EPA’s policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure 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” system, 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, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the <http://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, is not placed on the Internet and will be publicly

available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814-2176, or by e-mail at rehn.brian@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this rulemaking action, whenever “we,” “us,” or “our” is used, we are referring to EPA. The following outline is provided to aid in locating information in this preamble.

- I. Summary of the SIP Revision
- II. What Action Is EPA Taking?
- III. Why Is EPA Approving Delaware’s SIP Revision?
- IV. Final Action
- V. Statutory and Executive Order Reviews

I. Summary of the SIP Revision

EPA is approving a formal revision to the Delaware State Implementation Plan submitted by the state on August 12, 2005. This SIP revision consists of a regulation (formerly titled Regulation No. 45) that restricts extended idling of most on-road heavy-duty vehicles (those having a gross vehicle weight rating (GVWR) of greater than 8,500 pounds) while operating in the State of Delaware. The regulation sets a time limit of three consecutive minutes of idling time (*i.e.*, when a vehicle’s engine is on, but it is not in motion). Section 5 of Delaware’s Regulation No. 45 specifies exemptions to the idling limit for certain vehicle types and situations. These exemptions include: temperature-based exceptions for cold or hot days; vehicles idling for use of a sleeper berth, where the vehicle is not within 25 miles of a parking facility with available truckstop electrification equipment; vehicles which are stuck in traffic; vehicles being brought to manufacturer’s recommended operating temperature; vehicles using auxiliary equipment powered by the engine (*e.g.*, take-off power); emergency vehicles; tactical military vehicles in training operations; school and transit buses with passengers onboard (or within five minutes of passenger boarding); and situations where a vehicle is being repaired or is being tested to ensure safe operation.

Per section 1 of Delaware’s rule, this rule applies to “all on-road heavy-duty motor vehicles with a GVWR of greater

than 8,500 pounds operating in the State of Delaware.” Section 6 of Regulation No. 45 indicates that this regulation is enforceable under Title 7 Chapter 60 §§ 6005 and 6013 of the Delaware Code, with violators subject to a penalty of not less than \$60 and no more than \$500 for each offense.

On June 15, 2009, Delaware submitted a SIP revision which recodifies and makes general administrative changes to the regulatory language of its approved or submitted SIP rules. This recodification SIP revision does not change the substance of the August 2005 SIP revision, but does affect the numbering and format of the state regulation contained in the August 2005 SIP revision. EPA will take separate action on this renumbered version, Regulation No. 1145, in a separate rulemaking action along with a larger Delaware recodification SIP action.

II. What Rulemaking Action Is EPA Taking?

EPA is approving, via direct final rulemaking action, Delaware’s Regulation No. 45, entitled “Excessive Idling of Heavy Duty Vehicles,” and is incorporating this rule into the Delaware SIP.

III. Why Is EPA Approving Delaware’s SIP Revision?

Delaware Regulation No. 45 results in reduced emissions of pollutants that contribute to nonattainment of National Ambient Air Quality Standards for ozone and fine particulate matter. Specifically Regulation 45 leads to elimination of such pollutants resulting from unnecessary extended idling of heavy-duty vehicles. The pollutants reduced by this regulation are volatile organic compounds and nitrogen oxides, both of which are ground level ozone pollution precursors. Delaware’s rule will also reduce emissions of carbon monoxide, fine particulate matter, and the greenhouse gas carbon dioxide.

The approval of Delaware’s Regulation No. 45 will strengthen the Delaware SIP and assist the state in meeting and maintaining compliance with air quality standards, including the national ambient air quality standards for ground level ozone and fine particulate matter.

Delaware’s Regulation No. 45 is generally consistent with EPA’s “Model State Idling Law” (EPA420-S-06-001, April 2006). This model rule was developed with input from the states and affected industry to address extended idling issues in a consistent manner from state to state and to aid those being regulated in compliance

with compliance with idling limits. Although Delaware’s excessive idling regulation was adopted in 2005, prior to EPA’s issuance of its model state idling rule, Delaware captured the major elements of the EPA model rule in its regulation.

IV. Final Action

EPA is approving Delaware’s Air Quality Management Regulation No. 45, entitled “Excessive Idling of Heavy Duty Vehicles,” and incorporating this rule into the Delaware SIP. The rule is intended to reduce unnecessary idling from heavy duty motor vehicle engines within the boundaries of the state of Delaware.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. Similar provisions for reduced idling have been adopted in other states, and Delaware’s regulation has been in place since 2005. Further, Delaware’s Regulation No. 45 follows the spirit of EPA’s model state idling rule, so we anticipate the regulated parties will understand Delaware’s requirements as they relate to other nearby states and localities with similar excessive idling limits. However, in the “Proposed Rules” section of today’s **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on December 7, 2009 without further notice unless EPA receives adverse comment by November 9, 2009. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA 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 EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k);

40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act.

Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human

health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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 action 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).

C. Petitions for Judicial Review

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 7, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action to approve Delaware's SIP revision to reduce unnecessary idling of heavy-duty vehicles 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 25, 2009.

William C. Early,
Acting Regional Administrator, Region III.

■ 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 I—Delaware

■ 2. In § 52.420, the table in paragraph (c) is amended by adding an entry for Regulation No. 45 at the end of the table to read as follows:

§ 52.420 Identification of plan.

* * * * *
(c) * * *

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
* .	*	*	*	*
Regulation 45 Excessive Idling of Heavy Duty Vehicles				
Section 1	Applicability	4/11/05	10/08/09 [Insert page number where the document begins].	
Section 2	Definitions	4/11/05	10/08/09 [Insert page number where the document begins].	
Section 3	Severability	4/11/05	10/08/09 [Insert page number where the document begins].	
Section 4	Operational Requirements for Heavy Duty Motor Vehicles.	4/11/05	10/08/09 [Insert page number where the document begins].	
Section 5	Exemptions	4/11/05	10/08/09 [Insert page number where the document begins].	

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 6	Enforcement and Penalty	4/11/05	10/08/09 [Insert page number where the document begins].	

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[FR Doc. E9-24187 Filed 10-7-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R09-OAR-2009-0435; FRL-8966-3]

Approval and Promulgation of Implementation Plans; Corrections to the Arizona and Nevada State Implementation Plans**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is deleting certain statutes and rules that were erroneously approved by EPA under the Clean Air Act as part of the Arizona and Nevada state implementation plans. The rules that are the subject of this rule were adopted by Pima County Health Department in Arizona and the State Environmental Commission, Clark County District Board of Health, and Washoe County District Board of Health in Nevada. The statutes and rules that EPA is deleting relate to general declarations of policy, advisory committees, variances, and incidental fees and nuisance odors. EPA has determined that the continued presence of these statutory provisions and rules in the applicable state implementation plans is potentially confusing and thus harmful to affected sources, the state, local agencies, the general public and to EPA. The intended effect of this action is to delete these statutes and rules from the Arizona and Nevada state implementation plans.

DATES: This rule is effective on December 7, 2009 without further notice, unless EPA receives adverse comments by November 9, 2009. 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-2009-0435, by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions.

2. E-mail: allen.cynthia@epa.gov.

3. Mail or deliver: Cynthia Allen (AIR-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> portal is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

Docket: The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Cynthia Allen, Rules Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 947-4120, allen.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to EPA.

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II. What Statutory Provisions and rules are being deleted?

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I. Why is EPA correcting the SIPs?

The Clean Air Act (CAA or “Act”) was first enacted in 1970. In the 1970’s and early 1980s, thousands of state and local agency regulations were submitted to EPA for incorporation into state implementation plans (SIPs) in order to fulfill the new federal requirements. In many cases, states submitted entire regulatory air pollution programs, including many elements not required by the Act. Due to time and resource constraints, EPA’s review of these submittals focused primarily on the new substantive requirements, and we approved many other elements into the SIP with minimal review.

We now recognize that many of these elements were not appropriate for approval into the SIPs because they are not required for SIPs and are not related to the SIPs’ purpose under CAA section 110(a) of implementing, maintaining, and enforcing the national ambient air quality standards. Examples of inappropriately-approved SIP elements include statutes and rules that consist of general statements of policy; that govern local advisory boards; that specify incidental fees, method of payment, and refunds; and that regulate nuisance odors. Most of the statutes and rules we are deleting in today’s action fall under one of these categories.

In addition, we are deleting certain variance-related provisions that were orphaned by a previous EPA rulemaking deleting most such provisions from the Nevada Division of Environmental Protection (NDEP) portion of the Nevada SIP and the Pima County portion of the Arizona SIP. See EPA’s proposed rule at 61 FR 38664 (July 25, 1996) and final rule at 62 FR 34641 (June 27, 1997) for the rationale concerning the inappropriateness of variance provisions in a SIP. As explained EPA 1996 rule proposing to remove various variance-related provisions, variance provisions are generally prohibited by, and are not legally enforceable pursuant to, section 110(i) of the Act.