

and the Internal Revenue Service (IRS) on an annual basis.

§ 239.13. Program Performance Reviews.

HQUSACE will prepare monthly program performance reviews using the Homeowners Assistance Program Management Information System; HQUSACE Annual Management Command Plan and Management Control Checklist. In addition, program

monitoring will also be conducted (through HAPMIS and CEFMS reports) at the Headquarters Department of the Army and at the DUSD(I&E) levels.

§ 239.14. On-Site Inspections.

The HQUSACE and MSCs may conduct periodic on-site inspections of district offices and monitor program execution through HAPMIS and CEFMS reports.

§ 239.9. List of HAP field offices.

Homeowners Assistance Program field offices that process HAP applications for installations and applicants located in the State indicated. Questions should be directed to the field office listed within the State applicable to the installation.

Field office	For installations located in
U.S. Army Engineer District, Sacramento, CESP, 1325 J Street, Sacramento, CA 95814-2922. (916) 557-6850 or 1-800-811-5532. Internet Address: http://www.spk.usace.army.mil .	Alaska, Arizona, California, Nevada, Utah, Idaho, Oregon, Pacific Ocean Rim, Washington, Montana and Hawaii.
U.S. Army Engineer District, Savannah, CESAS, ATTN: RE-AH, P.O. Box 889, Savannah, GA 31402-0889. 1-800-861-8144. Internet Address: http://www.sas.usace.army.mil/hapinv/index.html .	Georgia, North Carolina, South Carolina, Alabama, Mississippi, Tennessee, Florida, Illinois, Indiana, Kentucky, Michigan, Ohio, Maryland, Delaware, District of Columbia, Pennsylvania, Virginia, Rhode Island, New York, Vermont, New Hampshire, Massachusetts, Connecticut, Maine, New Jersey, West Virginia and Europe.
U.S. Army Engineer District, Fort Worth, CESWF, P.O. Box 17300, Fort Worth, TX 76102-0300. (817) 886-1112. 1-888-231-7751. Internet Address: http://www.swf.usace.army.mil .	Arkansas, Louisiana, Oklahoma, Texas, New Mexico, Colorado, Iowa, Nebraska, Michigan, Minnesota, North and South Dakota, Wisconsin, Wyoming, Kansas and Missouri.

HAP Central Office, Homeowners Assistance Program, Real Estate Directorate, Military Division, 441 G Street, NW., Washington, DC 20314-1000.

Dated: September 23, 2009.

Patricia L. Toppings,

*OSD Federal Register Liaison Officer,
Department of Defense.*

[FR Doc. E9-23418 Filed 9-29-09; 8:45 am]

BILLING CODE 5001-06-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[EPA-HQ-OAR-2004-0014; FRL-8937-8]

Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of grant of reconsideration and administrative stay of regulation.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is providing notice that through a letter signed by the Administrator on April 24, 2009, EPA granted a petition for reconsideration of the final rule titled, "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions," published on December 19, 2008 (Fugitive Emissions Rule). EPA's decision to reconsider was

in response to a request made by Natural Resources Defense Council (NRDC) in a letter dated February 17, 2009.

DATES: The amendments to 40 CFR parts 51 and 52 in this rule are effective from September 30, 2009 through December 30, 2009. Effective September 30, 2009, the following CFR sections are administratively stayed until December 30, 2009: 40 CFR 51.165(a)(1)(v)(G), (a)(1)(vi)(C)(3), (a)(1)(ix), (a)(1)(xxviii)(B)(2), (a)(1)(xxviii)(B)(4), (a)(1)(xxxv)(A)(1), (a)(1)(xxxv)(B)(1), (a)(1)(xxxv)(C), (a)(1)(xxxv)(D), (a)(2)(ii)(B), (a)(6)(iii), (a)(6)(iv), and (f)(4)(i)(D); 40 CFR 51.166, (a)(7)(iv)(b), (b)(2)(v), (b)(3)(iii)(c), (b)(3)(iii)(d), (b)(20), (b)(40)(ii)(b), (b)(40)(ii)(d), (b)(47)(i)(a), (b)(47)(ii)(a), (b)(47)(iii), (b)(47)(iv), (r)(6)(iii) and (r)(6)(iv), and (w)(4)(i)(d); 40 CFR part 51, Appendix S, paragraphs II.A.5(vii), II.A.6(iii), II.A.9, II.A.24(ii)(b), II.A.24(ii)(d), II.A.30(i)(a), II.A.30(ii)(a), II.A.30(iii), II.A.30(iv), IV.I.1(ii), IV.J.3, IV.J.4, and IV.K.4(i)(d); and 40 CFR 52.21, (a)(2)(iv)(b), (b)(2)(v), (b)(3)(iii)(b), (b)(3)(iii)(c), (b)(20), (b)(41)(ii)(b), (b)(41)(ii)(d), (b)(48)(i)(a), (b)(48)(ii)(a), (b)(48)(iii), (b)(48)(iv), (r)(6)(iii), (r)(6)(iv), and (aa)(4)(i)(d).

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Wheeler, Air Quality Policy Division, (C504-03), U.S. Environmental Protection Agency, Research Triangle Park, NC, 27711; telephone number: (919) 541-9771; or e-mail address: wheeler.carrie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background Information

In addition to granting the petition for reconsideration in the April 24, 2009 letter, EPA indicated that it was administratively staying the rule for three months from the date of the letter. Since the initial decision to grant the stay, EPA has learned that under the present circumstances and in accordance with the Office of Federal Register's regulations, the effective date of the administrative stay of the Fugitive Emissions Rule must be a date on or after publication of notice announcing the stay in the **Federal Register**. As a result, EPA is announcing that the corrected effective date of the stay is the date of publication of this notice. This stay of the Fugitives Emissions Rule will be effective for a period of three months beginning with the publication of this document in the **Federal Register**. To effectuate this stay of the December 19, 2008 rule, we are reinstating previous provisions on a temporary basis. The EPA will publish a document in the **Federal Register** establishing a comment period and opportunity for a public hearing for the reconsideration proceeding.

The petition for reconsideration and request for administrative stay can be found in the docket for the December 19, 2008 rule. EPA's April 24, 2009 letter responding to NRDC's request for reconsideration is also in the docket. EPA considered the petition for reconsideration and request for stay, along with information contained in the rulemaking docket, in reaching a decision on both the reconsideration

and the stay of the Fugitives Emissions Rule.

II. How Can I Get Copies of This Document and Other Related Information?

This **Federal Register** document, the petition for reconsideration and the letter granting reconsideration and an

administrative stay of the effectiveness of the Fugitive Emissions Rule are available in the docket for the final rule titled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions," published on December 19,

2008 at 73 FR 77882, under Docket ID No. EPA-HQ-OAR-2004-0014. The table below identifies the petitioner, the date EPA received the petition, the document identification number for the petition, the date of EPA's response, and the document identification number for EPA's response.

Petitioner	Date of petition to EPA	Petition: Document No. in docket	Date of EPA response	EPA response: Document No. in docket
Natural Resources Defense Council	2/17/2009	0060	4/24/2009	0062

Note that all document numbers listed in the table are in the form of "EPA-HQ-OAR-2004-0014-xxxx."

All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information 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 through <http://www.regulations.gov> or in hard copy at the EPA Docket Center, Docket ID No. EPA-HQ-OAR-2004-0014, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

In addition to being available in the docket, an electronic copy of this **Federal Register** notice and EPA's response letter to the petitioners are also available on the World Wide Web at <http://www.epa.gov/nsr>.

III. Judicial Review

Under Clean Air Act section 307(b), judicial review of the Agency's decision concerning the stay is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit on or before November 30, 2009.

Dated: July 24, 2009.

Lisa P. Jackson,
Administrator.

■ For the reasons discussed in the preamble, the EPA amends 40 CFR parts 51 and 52 as follows:

PART 51—[AMENDED]

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

§ 51.165 [Amended]

■ 2. Effective September 30, 2009, 40 CFR 51.165(a)(1)(v)(G), (a)(1)(vi)(C)(3), (a)(1)(ix), (a)(1)(xxviii)(B)(2), (a)(1)(xxviii)(B)(4), (a)(1)(xxxv)(A)(1), (a)(1)(xxxv)(B)(1), (a)(1)(xxxv)(C), (a)(1)(xxxv)(D), (a)(2)(ii)(B), (a)(6)(iii), (a)(6)(iv), and (f)(4)(i)(D) are administratively stayed until December 30, 2009.

■ 3. Effective September 30, 2009 through December 30, 2009, amend 40 CFR 51.165 to add paragraph (a)(4) to read as follows:

§ 51.165 Permit requirements.

(a) * * *

(4) Each plan may provide that the provisions of this paragraph do not apply to a source or modification that would be a major stationary source or major modification only if fugitive emission to the extent quantifiable are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or citric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;

- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants—The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
- (xxvii) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

* * * * *

§ 51.166 [Amended]

■ 4. Effective September 30, 2009, 40 CFR 51.166 (a)(7)(iv)(b), (b)(2)(v), (b)(3)(iii)(c), (b)(3)(iii)(d), (b)(20), (b)(40)(ii)(b), (b)(40)(ii)(d), (b)(47)(i)(a), (b)(47)(ii)(a), (b)(47)(iii), (b)(47)(iv), (r)(6)(iii) and (r)(6)(iv), and (w)(4)(i)(d) are administratively stayed until December 30, 2009.

5. Effective September 30, 2009 through December 30, 2009, amend 40 CFR 51.166 to add paragraph (i)(1)(ii) to read as follows:

§ 51.166 Prevention of significant deterioration of air quality.

* * * * *

- (i) * * *
- (1) * * *

(ii) The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and such source does not belong to any following categories:

(a) Coal cleaning plants (with thermal dryers);

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) Primary zinc smelters;

(e) Iron and steel mills;

(f) Primary aluminum ore reduction plants;

(g) Primary copper smelters;

(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(i) Hydrofluoric, sulfuric, or nitric acid plants;

(j) Petroleum refineries;

(k) Lime plants;

(l) Phosphate rock processing plants;

(m) Coke oven batteries;

(n) Sulfur recovery plants;

(o) Carbon black plants (furnace process);

(p) Primary lead smelters;

(q) Fuel conversion plants;

(r) Sintering plants;

(s) Secondary metal production plants;

(t) Chemical process plants—The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(w) Taconite ore processing plants;

(x) Glass fiber processing plants;

(y) Charcoal production plants;

(z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act; or

* * * * *

Appendix S to 40 CFR Part 51 [Amended]

■ 6. Effective September 30, 2009, 40 CFR part 51, Appendix S, paragraphs II.A.5(vii), II.A.6(iii), II.A.9, II.A.24(ii)(b), II.A.24(ii)(d), II.A.30(i)(a), II.A.30(ii)(a), II.A.30(iii), II.A.30(iv), IV.I.1(ii), IV.J.3, IV.J.4, and IV.K.4(i)(d) are administratively stayed until December 30, 2009.

■ 7. Effective September 30, 2009 through December 30, 2009, amend Appendix S to part 51 to add II.F to read as follows:

Appendix S to Part 51—Emission Offset Interpretative Ruling

* * * * *

II. * * *
F. *Fugitive emission sources.* Section IV. A. of this Ruling shall not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and such source does not belong to any following categories:

(1) Coal cleaning plants (with thermal dryers);

(2) Kraft pulp mills;

(3) Portland cement plants;

(4) Primary zinc smelters;

(5) Iron and steel mills;

(6) Primary aluminum ore reduction plants;

(7) Primary copper smelters;

(8) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(9) Hydrofluoric, sulfuric, or nitric acid plants;

(10) Petroleum refineries;

(11) Lime plants;

(12) Phosphate rock processing plants;

(13) Coke oven batteries;

(14) Sulfur recovery plants;

(15) Carbon black plants (furnace process);

(16) Primary lead smelters;

(17) Fuel conversion plants;

(18) Sintering plants;

(19) Secondary metal production plants;

(20) Chemical process plants—The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

(21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(23) Taconite ore processing plants;

(24) Glass fiber processing plants;

(25) Charcoal production plants;

(26) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(27) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

* * * * *

PART 52—[AMENDED]

■ 8. The authority citation for part 52 continues to read as follows:

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

§ 52.21 [Amended]

■ 9. Effective September 30, 2009, 40 CFR 52.21 (a)(2)(iv)(b), (b)(2)(v), (b)(3)(iii)(b), (b)(3)(iii)(c), (b)(20),

(b)(41)(ii)(b), (b)(41)(ii)(d), (b)(48)(i)(a), (b)(48)(ii)(a), (b)(48)(iii), (b)(48)(iv), (r)(6)(iii), (r)(6)(iv), and (aa)(4)(i)(d), December 30, 2009.

■ 10. Effective September 30, 2009 through December 30, 2009, amend 40 CFR 52.21 to add (i)(l)(vii) to read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

* * * * *

(i) * * *

(1) * * *

(vii) The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

(a) Coal cleaning plants (with thermal dryers);

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) Primary zinc smelters;

(e) Iron and steel mills;

(f) Primary aluminum ore reduction plants;

(g) Primary copper smelters;

(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(i) Hydrofluoric, sulfuric, or nitric acid plants;

(j) Petroleum refineries;

(k) Lime plants;

(l) Phosphate rock processing plants;

(m) Coke oven batteries;

(n) Sulfur recovery plants;

(o) Carbon black plants (furnace process);

(p) Primary lead smelters;

(q) Fuel conversion plants;

(r) Sintering plants;

(s) Secondary metal production plants;

(t) Chemical process plants—The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(w) Taconite ore processing plants;

(x) Glass fiber processing plants;

(y) Charcoal production plants;

(z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(aa) Any other stationary source category which, as of August 7, 1980, is

being regulated under section 111 or 112 of the Act; or

* * * * *

[FR Doc. E9-23503 Filed 9-29-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NH-041-7013a; A-1-FRL-8955-9]

Approval and Promulgation of Air Quality Implementation Plans; Revised Format for Materials Being Incorporated by Reference for New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is revising the format of its regulations for materials submitted by the State of New Hampshire that are incorporated by reference (IBR) into its State Implementation Plan (SIP). The regulations affected by this format change have all been previously submitted by New Hampshire and approved by EPA.

DATES: *Effective Date:* This rule is effective on September 30, 2009.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

An electronic copy of the New Hampshire regulations we have approved for incorporation into the SIP are also available by accessing <http://www.epa.gov/ne/topics/air/sips.html>. A hard copy of the regulatory and source-specific portions of the compilation will also be maintained at the Air and Radiation Docket and Information Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460 and the National Archives and Records Administration (NARA). If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number (202) 566-1742. For information on the availability of this

material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

FOR FURTHER INFORMATION CONTACT:

Donald O. Cooke, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, telephone number (617) 918-1668, fax number (617) 918-0668, e-mail cooke.donald@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Change of IBR Format
 - A. Description of a SIP
 - B. How EPA Enforces the SIP
 - C. How the State and EPA Update the SIP
 - D. How EPA Compiles the SIP
 - E. How EPA Organizes the SIP Compilation
 - F. Where You Can Find a Copy of the SIP Compilation
 - G. The Format of the New Identification of Plan Section
 - H. When a SIP Revision Becomes Federally Enforceable
 - I. The Historical Record of SIP Revision Approvals
- II. What EPA Is Doing in This Action
- III. Good Cause Exemption
- IV. Statutory and Executive Order Reviews
 - A. General Requirements
 - B. Submission to Congress and the Comptroller General
 - C. Petitions for Judicial Review

I. Change of IBR Format

This format revision will affect the "Identification of plan" section of 40 CFR part 52, as well as the format of the SIP materials that will be available for public inspection at the National Archives and Records Administration (NARA); the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the EPA New England Regional Office.

A. Description of a SIP

Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS) and achieve certain other Clean Air Act (Act) requirements (e.g., visibility requirements and prevention of significant deterioration). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring network descriptions, attainment demonstrations, and enforcement mechanisms.

B. How EPA Enforces the SIP

Each SIP revision submitted by New Hampshire must be adopted at the state level after undergoing reasonable notice and opportunity for public comment. SIPs submitted to EPA to attain or maintain the NAAQS must include enforceable emission limitations and other control measures, schedules and timetables for compliance.

EPA evaluates submitted SIPs to determine if they meet the Act's requirements. If a SIP meets the Act's requirements, EPA will approve the SIP. EPA's notice of approval is published in the **Federal Register** and the approval is then codified in the Code of Federal Regulations (CFR) at 40 CFR part 52. Once EPA approves a SIP, it is enforceable by EPA and citizens in Federal district court.

We do not reproduce in 40 CFR part 52 the full text of the New Hampshire regulations that we have approved; instead, we incorporate them by reference ("IBR"). We approve a given state regulation with a specific effective date and then refer the public to the location(s) of the full text version of the state regulation(s) should they want to know which measures are contained in a given SIP (see "I.F. Where You Can Find a Copy of the SIP Compilation").

C. How the State and EPA Update the SIP

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations.

On May 22, 1997 (62 FR 27968), EPA announced revised procedures for incorporating by reference federally approved SIPs. The procedures announced included: (1) A new process for incorporating by reference material submitted by states into compilations and a process for updating those compilations on roughly an annual basis; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the compilations and the CFR; and (3) a revised format for the "Identification of plan" sections for each applicable subpart to reflect these revised IBR procedures.

D. How EPA Compiles the SIP

We have organized into a compilation the federally-approved regulations, source-specific requirements and nonregulatory provisions we have approved into the SIP. We maintain hard copies of the compilation in