

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).

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 March 28, 2016. 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 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: January 13, 2016.

**Susan Hedman,**

*Regional Administrator, Region 5.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

■ 2. In § 52.1220, the table in paragraph (d) is amended by revising the entry for "Xcel Energy-Inver Hills Generating Plant" to read as follows:

**§ 52.1220 Identification of plan.**

\* \* \* \* \*

(d) \* \* \*

**EPA-APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS**

Name of Source	Permit No.	State effective date	EPA Approval date	Comments
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Xcel Energy-Inver Hills Generating Plant.	03700015-004	07/16/14	01/28/16, [Insert <b>Federal Register</b> citation].	Only conditions cited as "Title I condition: SIP for SO <sub>2</sub> NAAQS."
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R07-OAR-2015-0644; FRL-9941-68-Region 7]

**Approval of Missouri's Air Quality Implementation Plans; Americold Logistics, LLC 24-Hour Particulate Matter (PM<sub>10</sub>) National Ambient Air Quality Standard (NAAQS) Consent Judgment**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the State Implementation Plan (SIP) submitted by the State of Missouri on June 2, 2014. This SIP revision incorporates a consent judgment to address violations of the 24-hour particulate matter (PM<sub>10</sub>) NAAQS near the Americold Logistics, LLC, Carthage Crushed Limestone (CCL)

facility near Carthage, Missouri. CCL is a limestone quarry operation. The consent judgment between the State of Missouri and CCL includes measures that will control PM<sub>10</sub> emissions from the facility. This approval will make the consent judgment Federally-enforceable.

**DATES:** This direct final rule will be effective March 28, 2016, without further notice, unless EPA receives adverse comment by February 29, 2016. If EPA receives adverse comment, we 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:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2015-0644, to [www.regulations.gov](http://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is

considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913-551-7039 or by email at [hamilton.heather@epa.gov](mailto:hamilton.heather@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. Background
- II. What is being addressed in this document?
- III. Have the requirements for approval of a SIP revision been met?
- IV. What action is EPA taking?
- V. Incorporation by Reference
- VI. Statutory and Executive Order Reviews

## I. Background

EPA's current health-based PM<sub>10</sub> NAAQS was set in 1987 at a level of 150 µg/m<sup>3</sup> measured over 24 hours. 40 CFR 50.6(a). An exceedance of the NAAQS is a daily (24-hour average) PM<sub>10</sub> concentration that is above the level of the standard. A violation of the NAAQS occurs when an exceedance occurs more than once per year on average over three years. 40 CFR part 50, appendix K.

Exceedances and violations of the PM<sub>10</sub> NAAQS at the Carthage monitor date back to 2001. In October 2003, the Missouri Department of Natural Resources (MDNR) Air Pollution Control Program and Americold Logistics, LLC, Carthage Crushed Limestone (CCL) entered into a settlement agreement that contained measures for reducing CCL's fugitive particulate matter emissions for exceedances of the PM<sub>10</sub> NAAQS. The measures put in place from the settlement agreement reduced the number of PM<sub>10</sub> exceedances at the Carthage monitor for several years.

There were no exceedances in 2009 and 2010; however, based on validated air quality data from 2011 to 2013, the Carthage monitor again experienced a number of exceedances as evidenced in the following table:

**CARTHAGE PM<sub>10</sub> AIR QUALITY SYSTEM  
DATA VALIDITY AND CERTIFICATION  
THROUGH JUNE 30, 2013**

Date	24-Hour PM <sub>10</sub> exceedance (µg/m <sup>3</sup> )
June 23, 2011 .....	174
September 9, 2011 .....	159
September 26, 2011 .....	258
November 30, 2011 .....	192
January 16, 2012 .....	222

After an internal analysis to identify potential sources of emissions for the exceedances, the MDNR Air Pollution Control Program contacted CCL regarding their operations at the facility. On June 8, 2012, CCL proposed additional control measures that were necessary due to malfunctioning equipment and processing issues at the facility.

## II. What is being addressed in this document?

EPA is taking direct final action to approve a revision to the SIP submitted by the State of Missouri on June 2, 2014. Missouri requested that EPA approve Americold Logistics, LLC, Carthage Crushed Limestone (CCL) consent judgment for inclusion into the Missouri SIP. The consent judgment between the

state of Missouri and CCL was entered on May 3, 2014, and effective May 13, 2014. The consent judgment requires CCL to apply specific measures and work practices to reduce PM<sub>10</sub> emissions generated at the facility. These measures and practices were required to be operational by March 31, 2014. CCL has implemented and made operational these measures in accordance with the consent judgment timelines.

As a result, CCL worked cooperatively with MDNR who developed an enforceable consent judgment for implementing controls to further reduce PM<sub>10</sub> emissions at the facility. CCL proactively put several controls in place during 2012 and 2013 prior to finalization of the consent judgment.

Control measures to reduce fugitive PM<sub>10</sub> emissions in the 2014 consent judgment include the following: (1) Installation of wet suppression for crushers; (2) eliminate screen and install a hopper to reduce free fall of rock; (3) install a CFM compressor for the baghouse controlling the Cedar Rapids dryer; (4) design and install a new drop point/transition to improve seal at conveyor transfer points; (5) install a new bin top in the west lime hopper; (6) fabricate a new transition on elevator head where it drops on to tail of the line to the conveyor belt, and install a new head house and boot that seals to the elevator; (7) rebuild a water truck to contain eight thousand gallons of water for haul roads; (8) enclose the bed of the haul truck that hauls waste fines to stock pile area; (9) develop an operation and maintenance plan for MDNR approval, and, (10) submit a full emissions inventory questionnaire for the calendar year 2012. The aforementioned control measures were completed according to schedule.

The consent judgment also includes contingency measures in the event of an exceedance of the PM<sub>10</sub> NAAQS. Contingency measures include investigating and addressing any exceedance to the extent possible in a timely manner including a detailed report to the MDNR Air Pollution Control Program within ten days. Additional contingency measures outlined in the consent judgment are to be reported no later than ninety days after the calendar quarter in which the monitoring data was measured.

In addition to the measures outlined in the consent judgment, CCL has voluntarily agreed to participate in a near-real-time PM<sub>10</sub> concentration alarm notification system for monitored hourly PM<sub>10</sub> levels that exceed the 150 µg/m<sup>3</sup>. This activity is strictly voluntary and the MDNR Air Pollution Control

Program is not submitting requirements for CCL to participate in the alarm notification for inclusion in this SIP action.

Since entering into the consent judgment with the MDNR, there was one exceedance of the PM<sub>10</sub> standard on December 8, 2014. There have been no other exceedances recorded since that date. CCL, in accordance with the consent judgment contingency measures, notified the MDNR Air Pollution Control Program about the exceedance. The MDNR Air Pollution Control Program continues to monitor air quality and to work with the facility as necessary to implement the contingency measures of the consent judgment through a corrective action plan that addresses the 2014 exceedance.

The control and contingency measures identified in the consent judgment, and included in MDNR's SIP revision request, is a significant strengthening of the current requirements applicable to this source to control fugitive PM emissions. EPA believes that these requirements will reduce or potentially eliminate future exceedances of the PM<sub>10</sub> NAAQS and lead to improvements in the air quality in the area surrounding CCL's facility. The work practice revisions and mechanical upgrades along with the contingency measures put into action by the consent judgment and this SIP revision provide for permanent modifications that deal with past and future exceedances in a manner that limits their potential and represent an effective short term and long term control strategy for fugitive emissions of coarse particulate matter.

## III. Have the requirements for approval of a SIP revision been met?

The June 2, 2014, submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

## IV. What action is EPA taking?

EPA is taking direct final action to approve this SIP revision. We are publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve this SIP revision, if adverse comments are

received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

#### V. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Missouri Source Specific Permits and Orders described in the direct final amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

#### VI. Statutory and Executive Order Reviews

Under the CAA, 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 CAA. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 CAA; 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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).

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 March 28, 2016. 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. 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 11, 2016.

**Mark Hague,**

*Regional Administrator, Region 7.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

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

#### Subpart AA—Missouri

- 2. Section 52.1320(d) is amended by adding entry (30) at the end of the table to read as follows:

#### § 52.1320 Identification of plan.

\* \* \* \* \*

(d) \* \* \*

EPA-APPROVED MISSOURI SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/Permit No.	State effective date	EPA Approval date	Explanation
(30) Americold Logistics, LLC 24-Hour Particulate Matter (PM <sub>10</sub> ) National Ambient Air Quality (NAAQS) Consent Judgment.	Consent Judgment 14AP-CC00036.	4/27/14	1/28/16, [insert <b>Federal Register</b> citation].	.....

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2015-0545; FRL-9941-72-Region 9]

**Disapproval of California Air Plan Revisions, South Coast Air Quality Management District**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing disapproval of revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). This

action was proposed in the **Federal Register** on November 24, 2015 and concerns rules regulating Vehicle Scrapping, Employee Trip Reduction, and procedures for the hearing board concerning variances and subpoenas. The submitted SCAQMD rules are discretionary and this disapproval does not reveal a deficiency in the SIP. **DATES:** *Effective Date:* This rule is effective on February 29, 2016. **ADDRESSES:** The EPA has established docket number EPA-R09-OAR-2015-0545 for this action. Generally, documents in the docket for this action are available electronically at [www.regulations.gov](http://www.regulations.gov) or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94015-3901. While all documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material, large maps), 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:** Idalia Pérez, EPA Region IX, (415) 972-3248, [perez.idalia@epa.gov](mailto:perez.idalia@epa.gov). **SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to the EPA.

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- I. Proposed Action
- II. Public Comments and EPA Responses
- III. EPA Action
- IV. Statutory and Executive Order Reviews

**I. Proposed Action**

On November 24, 2015 (80 FR 73156), the EPA proposed to disapprove the following rules that were submitted for incorporation into the California SIP.

Local agency	Rule #	Rule title	Adopted or amended	Submitted
SCAQMD .....	1610	Old-Vehicle Scrapping .....	05/09/97 ..	06/03/97
SCAQMD .....	2202	On-Road Motor Vehicle Mitigation Options .....	10/09/98 ..	06/03/99
SCAQMD .....	503.1	Ex Parte Petitions for Variances .....	02/05/88 ..	02/07/89
SCAQMD .....	504	Rules from which Variances Are Not Allowed .....	01/05/90 ..	05/13/91
SCAQMD .....	511.1	Subpoenas .....	02/05/88 ...	02/07/89

We proposed to disapprove these rules because some rule provisions do not satisfy the requirements of section 110 and part D of the Act.

We proposed to disapprove the SIP revision for Rule 1610 based at least in part on the following deficiencies:

1. The Section (e)(2) requirement that engines of scrapped vehicles be destroyed is insufficiently federally enforceable for various reasons.
2. The Section (f)(2)(A) requirement that the vehicle be registered for two years within SCAQMD is not fully enforceable by allowing the Executive Officer to approve different documentation.
3. The Section (g) requirement of a visual and functional inspection of the vehicle has no recordkeeping requirements.
4. There is no recordkeeping requirement to demonstrate compliance

with the Section (g)(1) requirement that vehicles be driven under their own power to the scrapping site.

5. There is no requirement to maintain records for the life of Mobile Source Emission Reduction Credits.
- We proposed to disapprove the SIP revision for Rule 2202 based at least in part on the following deficiencies:
1. Per Section (f)(1), the rule relies on Regulation XVI, which is not currently in the SIP.
  2. Per Section (f)(3), the rule relies on the Air Quality Investment Program (Rule 2501), which is not currently in the SIP.
  3. Per Section (f)(4), the rule relies on emission reduction strategies approved on a case-by-case basis by the Executive Officer.
  4. Per Section (g)(4), the rule relies on vehicle miles travelled reduction programs approved on a case-by-case basis by the Executive Officer.

We proposed to disapprove the SIP revision for Rules 503.1 and 504 because they conflict with CAA sections 110(a) and (i) and fail to address that a state- or district-issued variance has no effect on enforcing the underlying federal requirement unless the variance is submitted to and approved by EPA as a SIP revision.

We proposed to disapprove the SIP revision for Rule 511.1 to avoid potential conflict with EPA’s independent authorities provided in CAA section 113, section 114 and elsewhere.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.