

only for such participation as occurs during their regular work hours and when they would otherwise be in a work or paid leave status. Participation as witnesses includes the time necessary to travel to and from the site of a hearing, and the time spent giving testimony and waiting to give testimony, when such time falls during regular work hours. In addition, necessary transportation and per diem expenses shall be paid by the employing agency or activity.

*Effective date:* These amendments shall become effective November 8, 1973.

Signed at Washington, D.C., this 5th day of November 1973.

PAUL J. FASSER, Jr.,  
Assistant Secretary of Labor  
for Labor-Management Relations

[FR Doc.73-23852 Filed 11-7-73;8:45 am]

#### Title 40—Protection of Environment

#### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

#### SUBCHAPTER C—AIR PROGRAMS

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

#### Miscellaneous Amendments

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with specific exceptions, State plans for implementation of the national ambient air quality standards for the States of Hawaii, Iowa, Kansas, Massachusetts, Missouri, Rhode Island, and Wisconsin. This publication contains amendments to the previous actions involving these States. The Administrator's approval/disapprovals are amended as a result of supplemental information submitted by Kansas and Missouri and corrections to previous publications involving Hawaii, Massachusetts, Rhode Island, and Wisconsin. Also, the approval/disapproval notice for the State of Iowa is amended and substitute regulations promulgated pursuant to an order issued by the U.S. Court of Appeals for the Eighth Circuit.

Subpart A, General Provisions, is also amended to clarify the Agency's policy involving compliance schedule approvals.

On June 14, 1972 (37 FR 11826), the Administrator proposed a new paragraph § 52.09(c) to make clear the Agency's policy regarding the approval of variances to compliance schedules. This proposed paragraph is no longer necessary due to the amendments to the general provisions in § 52.07(a) and § 52.20 which clarify the requirements relating to variances and other compliance schedules. Therefore, the proposed paragraph (c) to § 52.09 has been withdrawn.

A new § 52.09(c) is promulgated below to make clear that approval of any compliance schedule by the Administrator does not release the source owner or operator of any responsibility to comply with applicable emission limitations on and after the final compliance date specified in any schedule. The retention of

this responsibility is necessary because the complexity of control technology, variations in operating parameters and operating capability make it impossible to fully establish control engineering and design adequacy through plan review.

For Hawaii, a date for submission of supplemental information was inadvertently omitted in the May 14, 1973, FEDERAL REGISTER (38 FR 12712); this error is corrected below by adding the omitted date (June 15, 1972) to § 52.620, *Identification of plan*.

On July 27, 1973, the United States Court of Appeals for the Eighth Circuit decided the case of "Natural Resources Defense Council, Inc., et al. v. Environmental Protection Agency," Case No. 72-1380. This case was filed pursuant to section 307(b) (1) of the Act and challenged the Administrator's approval of certain portions of the Iowa implementation plan. The Court ordered that the Administrator disapprove portions of this plan. In rendering this decision, the Court referenced the order of the United States Court of Appeals for the First Circuit (April 11, 1973; Case Nos. 72-1219 and 72-1224) in a similar case involving the implementation plans for Massachusetts and Rhode Island.

The Court found that Iowa has variance statutes which allowed the Air Quality Commission of the Iowa Department of Environmental Quality to grant variances even after the mandatory dates for attainment of the national ambient air quality standards established in section 110 of the Clean Air Act. The Clean Air Act was interpreted to preclude States from granting variances after such dates except as provided in section 110(f) of the Clean Air Act. The Court agreed with the First Circuit Court that the provisions of the Clean Air Act "not only empower, but also require, the Administrator to disapprove State statutes and regulations, or portions thereof, which are not in accordance with the requirements of the Clean Air Act." Accordingly, the Iowa variance statutes and the State regulations implementing that authority are herein disapproved insofar as they permit the granting of variances beyond the statutory attainment dates, without the approval of the Administrator, and under conditions inconsistent with the Court's opinion.

The authority of the Iowa State Department of Environmental Quality to issue abatement orders was also challenged and the Court applied the same interpretation of the Clean Air Act to this part of the Iowa law as it did to the variance procedure. That portion of the Iowa statutes is also disapproved below.

The Court also required the Administrator to promulgate regulations amending the Iowa plan in accordance with the terms of its order. Thus, regulations are promulgated which specify the procedures and circumstances under which Iowa will be authorized to issue variances to sources subject to provisions of its implementation plan. These regulations are promulgated below.

The amendments set forth below regarding Iowa are effective from November 8, 1973, since they are made to comply with the Court order.

The Kansas Department of Health submitted supplemental information on April 6, 1972 and February 15, 1973, in the form of Communication Emergency Episode Operations Manuals for the Priority I Regions. This supplemental information meets the requirements of 40 CFR 51.16(e) and is approved below.

On April 17, 1973, the Governor of Kansas submitted supplemental information changing emergency episode criteria which were previously disapproved. These changes meet the requirements of § 51.16(b) (1); thus, the previous disapproval is revoked below. Also on April 17, 1973, the Governor submitted revised regulations involving the review of new or modified sources. The original plan did not provide legally enforceable procedures for preventing construction of sources which would interfere with the attainment and maintenance of all national standards. After notice and public hearing, the Administrator promulgated on September 22, 1972 (37 FR 19806), a regulation to correct this deficiency. The Administrator finds the revised regulations approvable; therefore, the previous disapproval and promulgation involving new source review are revoked below.

The revised rules and regulations which the Governor of Kansas submitted on April 17, 1973, also delete the emission limitation for sulfur dioxide from sulfuric acid plants in Regulation 28-19-22. There is only one sulfuric acid plant in Kansas. EPA has performed a point source diffusion model for this source based on stack parameters and existing emissions supplied by the Kansas Department of Health. The model results predict maximum hourly concentrations in the area of the plant of approximately 500 µg/m<sup>3</sup>. Since the source is relatively isolated, control measures for this source are not necessary to attain or maintain the national ambient air quality standards for sulfur dioxide, hence the Administrator approves this revision below.

The revision to the Kansas plan also deletes Regulation 28-19-25, emission limitations for nitrogen dioxide from nitric acid plants. Since all regions in Kansas are Priority III for nitrogen oxide and no violation to air quality standards is expected or known to occur, no control strategy is required. Therefore, this revision is approvable. Finally, Regulation 28-19-23, hydrocarbon emission limitations, and Regulation 28-19-24, emission limitations for carbon monoxide, have been amended to apply only to sources installed after January 1, 1972. Since the Federal Motor Vehicle Control Program is adequate to attain and maintain the national ambient air quality standards for carbon monoxide, nitrogen dioxide and photochemical oxidants in Kansas, these changes do not impair the plan's adequacy with respect to the attainment and maintenance of the national standards for these pollutants. The revision to the Kansas regulations include several

minor changes such as the elimination of Ringelmann Number in favor of an opacity provision, which do not affect the control strategy. These revisions are approved below.

On July 27, 1973, the Governor of Kansas submitted supplemental information which corrects a deficiency in the State's authority to make emission data obtained from stationary sources available to the public; thus, the previous disapproval is revoked below.

This notice also includes a revision to the regulations for compliance schedules promulgated by the Administrator for the State of Kansas on September 22, 1972 (37 FR 19806). The revision extends the date for achieving compliance with the applicable regulations from December 31, 1973, to January 31, 1974. This change is made to be consistent with the provisions of 40 CFR Part 51.15(c) as amended December 9, 1972 (37 FR 26310), which specifies January 31, 1974, as the date of compliance after which increments of progress are required for a compliance schedule.

On May 24, 1973, the Missouri Air Conservation Commission submitted as supplemental information Emergency Operations/Communication Manuals for three air quality control regions within the State of Missouri. The regions covered are the St. Louis Interstate Region, the Southwest Missouri and the Northern Missouri Intrastate Regions. This supplemental information meets the requirements of 40 CFR 51.16(e) and is approved below. With the submission of these manuals, all Priority I and II regions are covered by approved procedures.

For Wisconsin, a date for submission of supplemental information was listed incorrectly in the May 14, 1973, FEDERAL REGISTER (38 FR 12713) and is corrected below. Also, errors in the citation of section numbers involving disapproval and promulgation actions for the Massachusetts and Rhode Island plans appearing on July 16, 1973 (38 FR 18878 and 38 FR 118879), are corrected below.

These approval actions are effective on the date of publication in the FEDERAL REGISTER. The agency finds that good cause exists for not publishing these substantive actions as a notice of proposed rulemaking and for making them effective immediately upon publication for the following reasons:

1. The implementation plan provisions were adopted in accordance with procedural requirements of State and Federal law, which provided for adequate public participation through notice and public hearings and comments, and further participation is unnecessary and impracticable.

2. Immediate effectiveness of the actions enable the sources involved to proceed with certainty in conducting their affairs, and persons wishing to seek judicial review of the actions may do so without delay.

(42 U.S.C. 1857c-5)

Dated: November 1, 1973.

JOHN QUARLES,  
Acting Administrator,  
Environmental Protection Agency.

Part 52 of Chapter I Title 40 of the Code of Federal Regulations is amended as follows:

Subpart A—General Provisions

1. In § 52.09, a new paragraph (c) is added as follows:

§ 52.09 Compliance schedules.

(c) The Administrator's approval or promulgation of any compliance schedule shall not affect the responsibility of the owner or operator to comply with any applicable emission limitation on and after the date for final compliance specified in the applicable schedule.

Subpart M—Hawaii

2. In § 52.620, paragraph (c) (2) is revised to read as follows:

§ 52.620 Identification of plan.

(c) \* \* \*

(2) May 8, May 22, June 15, and November 21, 1972.

Subpart Q—Iowa

3. Subpart Q is amended by adding new §§ 52.828 and 52.829 as follows:

§ 52.828 Enforcement.

(a) Sections 23(1)(b) and 13(7) of Senate File 85, Division II for Iowa are disapproved insofar as they permit the Air Quality Commission of the Iowa Department of Environmental Quality to issue abatement orders (1) that defer compliance with plan requirements beyond the dates required for attainment of the national standards, (2) without the approval of the Administrator, and (3) for reasons not permitted by the Clean Air Act.

(b) Regulation limiting administrative abatement orders:

(1) No order deferring compliance with a requirement of the Iowa Implementation Plan shall be issued by the Air Quality Commission of the Iowa Department of Environmental Quality which does not meet the following requirements:

(i) An order must require compliance with the plan requirement within the times and under the conditions specified in § 51.15(b) (1) and (2) of this chapter.

(ii) An order may not defer compliance beyond the last date permitted by section 110 of the Act for attainment of the national standard which the plan implements unless the procedures and conditions set forth in section 110(f) of the Act are met.

(iii) An order shall not be effective until it has been submitted to and approved by the Administrator in accordance with §§ 51.6, 51.8, 51.15 (b) and (c), and, if applicable, 51.32 (a)-(e) of this chapter.

(2) Notwithstanding the limitations of paragraph (b) (1) (ii) of this section, an order may be granted which provides for compliance beyond the statutory attainment date for a national standard where compliance is not possible because of breakdowns or malfunctions of equipment, acts of God, or other unavoidable

occurrences. However, such order may not defer compliance for more than three (3) months unless the procedures and conditions set forth in section 110(f) of the Act are met.

§ 52.829 Variances.

(a) Section 3.2(3)(a) of the Iowa Rules and Regulations relating to air pollution control and section 23(1)(b) of Senate File 85, Division II for Iowa are disapproved insofar as they permit the granting of variances (1) beyond the dates required for attainment of the national standards; (2) without the approval of the Administrator, and (3) for reasons not permitted by the Clean Air Act.

(b) Regulation limiting variances:

(1) No variance from any requirement of the Iowa Implementation Plan shall be granted which does not meet the following requirements:

(i) A variance must require compliance with the plan requirement within the times and under the conditions specified in § 51.15(b) (1) and (2) of this chapter.

(ii) A variance may not defer compliance beyond the last date permitted by section 110 of the Act for attainment of the national standard which the plan implements unless the procedures and conditions set forth in section 110(f) of the Act are met.

(iii) A variance shall not be effective until it has been submitted to and approved by the Administrator in accordance with §§ 51.6, 51.8, 51.15 (b) and (c), and if applicable, 51.32 (a)-(e) of this chapter.

(2) Notwithstanding the limitations of paragraph (b) (1) (ii) of this section, a variance may be granted which provides for compliance beyond the statutory attainment date for a national standard where compliance is not possible because of breakdowns or malfunctions of equipment, acts of God, or other unavoidable occurrences. However, such variance may not extend for more than three (3) months unless the procedures and conditions set forth in section 110(f) of the Act are met.

Subpart R—Kansas

4. In § 52.870, paragraph (c) is revised and paragraph (d) is added. As amended, § 52.870 reads as follows:

§ 52.870 Identification of plan.

(c) Supplemental information was submitted on:

(1) March 24 and April 6, 1972, and February 15, 1973, by the Kansas Department of Health, and

(2) April 17 and May 29, 1973.

(d) Plan revisions were submitted on April 17, 1973.

§ 52.875 [Revoked]

5. Section 52.875 is revoked.

§ 52.876 [Amended]

6. In § 52.876(b) (1), the date "December 31, 1973" is changed to "January 31, 1974".

## §§ 52.877, 52.878 [Revoked]

7. Section 52.877 is revoked.
8. Section 52.878 is revoked.

## Subpart W—Massachusetts

9. In order to correct the citation in 38 FR 18878 at 18879 (July 16, 1973), the reference to § 52.1129 is changed to read § 52.1133.

## Subpart AA—Missouri

10. In § 52.1320, paragraph (c) is revised to read as follows:

## § 52.1320 Identification of plan.

(c) Supplemental information was submitted on:

- (1) February 28, March 27, May 2, May 11, and July 12, 1972, and May 11, 21, and 24, 1973, by the Missouri Air Conservation Commission, and
- (2) August 8, 1972.

## Subpart OO—Rhode Island

11. In order to correct the citations in 38 FR 18878 at 18879 (July 16, 1973) and 38 FR 18879 at 18880 (July 16, 1973), the references to §§ 52.2077(a) and 52.2077(b) are changed to read § 52.2080(a) and § 52.2080(b) respectively.

## Subpart YY—Wisconsin

12. In FR Doc. 73-9329 appearing at page 12713 in the issue of Monday, May 14, 1973, in § 52.2570(c) (2) the date now reading "January 10, 1973", should read "January 19, 1973".

[FR Doc. 73-23816 Filed 11-7-73; 8:45 am]

## Title 45—Public Welfare

## CHAPTER IX—ADMINISTRATION ON AGING, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## PART 910—MODEL PROJECTS ON AGING

The regulations set forth below are hereby promulgated to implement the Model Projects program under section 308 of the Older Americans Act of 1965, added by P.L. 93-29, the Older Americans Comprehensive Services Amendments of 1973. Funds for this program, from fiscal year 1973, are available, under the Second Supplemental Appropriations Act, 1973 (P.L. 93-50), only until December 31, 1973. In order to begin operation of the program as quickly as possible, it has been determined to publish regulations immediately without notice of proposed rule-making, as any delay of program implementation would be contrary to the public interest and would delay the benefits which older persons will receive under this program.

The regulations state, in § 910.2, the types of projects which will receive special consideration for funding. In addition to the priorities stated in the Act, and additional ones established by the Commissioner, special consideration will be given, in the awarding of FY 1973 funds, to projects to expand information and referral service capabilities, including outreach efforts to locate hard-to-reach individuals, in connection with new resources and services that are being

made available for older persons. This initiative, in providing basic services to help people get other services, will lay the groundwork for full-scale implementation of the program. Information from these projects will also provide additional information about the needs of older persons, and help the Administration on Aging, and State and local agencies, meet the needs of older persons more effectively.

The regulations are subject to revision, and interested parties are encouraged to submit written comments, suggestions or objections concerning the relations to the Commissioner on Aging, U.S. Department of Health, Education, and Welfare, Mary E. Switzer Building, 330 C Street SW., Washington, D.C. 20201. All such submissions received on or before December 15, 1973 will be considered prior to promulgation of final regulations for the program.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to grants under this part to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant portions of Part 74 also apply to grants to all other grantees to the extent prescribed by 45 CFR 901.5.

Federal financial assistance extended under Part 910 is subject to the regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d).

(Catalog of Federal Domestic Assistance Program No. 13.756—Special Programs for the Aging)

*Effective date.* This amendment is effective November 8, 1973.

Dated: October 12, 1973.

ARTHUR S. FLEMMING,  
*Commissioner on Aging.*

Approved: October 15, 1973.

STANLEY B. THOMAS, Jr.,  
*Assistant Secretary  
for Human Development.*

Approved: November 2, 1973.

CASPAR W. WEINBERGER,  
*Secretary of Health,  
Education, and Welfare.*

Chapter IX of Title 45 of the Code of Federal Regulations is amended by adding a new Part 910, reading as follows:

Sec.	
910.1	General.
910.2	Project awards.
910.3	Application submission and review procedures.
910.4	Condition of awards.
910.5	Confidentiality.
910.6	Project revisions.
910.7	Payments.
910.8	Reports.
910.9	Expenditures.
910.10	Audits.
910.11	Evaluation.
910.12	Contracts.

AUTHORITY: Sec. 308, P.L. 93-29, 87 Stat. 44-45 (42 U.S.C. 3028).

## § 910.1 General.

The Commissioner may, after consultation with the State agency designated under § 903.13 of this chapter, make grants to any public or nonprofit private agency or contracts with any agency or organization within such State for paying part or all of the cost of developing or operating statewide, regional, metropolitan area, county, city or community model projects which will expand or improve social services or otherwise promote the well-being of older persons. Sections 910.2-910.11 deal with grants and § 910.12 with contracts.

## § 910.2 Project awards.

(a) In making grants under this part, the Commissioner will give special consideration to projects designed to:

(1) Assist in meeting the special housing needs of older persons by:

(i) Providing financial assistance to such persons who own their own homes, necessary to enable them to make the repairs and renovations to their homes which are necessary for them to meet minimum standards;

(ii) Studying and demonstrating methods of adapting housing or construction of new housing to meet the needs of older persons suffering from physical disabilities;

(iii) Demonstrating alternative methods of relieving older persons of the burden of real property taxes on their homes;

(2) Provide continuing education to older persons designed to enable them to lead more productive lives by broadening the educational, cultural, or social awareness of such older persons, emphasizing, where possible, free tuition arrangements with colleges and universities;

(3) Provide preretirement education, information, and relevant services (including the training of personnel to carry out such programs and the conducting of research with respect to the development and operation of such programs) to persons planning retirement; or

(4) Provide services to assist in meeting the particular needs of the physically and mentally impaired older persons including special transportation and escort services, homemaker, home health and shopping services, and other services designed to assist such individuals in leading a more independent life.

(b) The Commissioner will also give special consideration to projects designed to:

(1) Serve those older persons in greatest need, particularly low income and minority older persons; and

(2) Further efforts to foster the development of coordinated and comprehensive service systems for older persons.

(c) In awarding fiscal year 1973 funds, available until December 31, 1973, the Commissioner will give special consideration to projects designed to expand information and referral service capabilities, including outreach efforts to locate hard-to-reach individuals, in con-