

**List of Subjects in 30 CFR Part 943**

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 10, 1998.

**Brent Wahlquist,**

*Regional Director, Mid-Continent Regional Coordinating Center.*

For the reasons set out in the preamble, 30 CFR Part 943 is amended as set forth below:

**PART 943—TEXAS**

1. The authority citation for Part 943 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 943.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

**§ 943.15 Approval of Texas regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* * *	* * *	* * *
January 23, 1998.	April 22, 1998.	Recodification; 16 TAC 12.1 through 12.710.

3. Section 943.25 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

**§ 943.25 Approval of Texas abandoned mine land reclamation plan amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* * *	* * *	* * *
January 23, 1998.	April 22, 1998.	Recodification; 16 TAC 12.800 through 12.817.

[FR Doc. 98-10633 Filed 4-21-98; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[MO 042-1042(a); FRL-5979-4]

**Approval and Promulgation of Implementation Plans; State of Missouri**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving revisions submitted by the state of Missouri on March 20, 1997, which are designed to consolidate applicable requirements contained in its State Implementation Plan (SIP). These revisions will simplify compliance for Part 70 installations and many other Missouri sources.

**DATES:** This action is effective June 22, 1998 unless by May 22, 1998 relevant adverse comments are received. Should the agency receive such comment, it will publish notification withdrawing this rule.

**ADDRESSES:** Comments must be mailed to Joshua Tapp at EPA, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Joshua A. Tapp at (913) 551-7606.

**SUPPLEMENTARY INFORMATION:** With the advent of the Clean Air Act (CAA) operating permit program, the EPA, the Missouri Department of Natural Resources (MDNR), the City of St. Louis—Division of Air Pollution Control, the St. Louis County Department of Health, the Kansas City Health Department—Air Pollution Control Program, and the City of Springfield—Air Pollution Control Program have coordinated the review of the local agency codes and ordinances contained in the current Federally approved SIP. Consistency between these codes and ordinances and the state regulations contained in the SIP has always been important, but the operating permit program has brought this issue to the forefront. The basic concept of the operating permit program is to combine all air requirements to which one particular source is subject into one cohesive document so that the

public, the source, and the regulatory agencies can clearly understand the compliance obligations. However, when the SIP contains outdated, overlapping, and sometimes conflicting applicable requirements, combining all requirements into one document may not achieve this goal.

This coordinated review revealed numerous discrepancies between Federally approved local ordinances and Federally approved state rules. The review also uncovered the fact that some local agencies have long since revised their regulations and, in many cases, the current version of the local agency regulations is very different from the Federally approved version.

In response to this review, MDNR and its local agencies developed recommendations for SIP action to correct these issues. This request is for the retention of some sections, the removal of some sections, and the addition of other sections. Five criteria were used to determine which sections should be recommended for removal from the SIP: (1) The sections are administrative only, (2) the sections apply to no known sources, (3) the requirements of the sections are covered by equivalent or more stringent Federally approved state rules, (4) the sections have no bearing on attainment or maintenance of the National Ambient Air Quality Standards, or (5) the sections are being concurrently replaced by current local ordinance, code, or permit requirements. Sections not meeting these criteria were recommended for retention. MDNR and its local agencies also requested that certain sections located in new or revised ordinances be added to replace outdated versions of Federally approved sections.

The following are examples of local ordinance provisions which are being retained in the SIP. MDNR and the City of Springfield Air Pollution Control Department have requested that Air Pollution Control Standard No. 1890, Chapter 2A, section 35 entitled "Maximum Emission Limitations from Incinerators" and related sections be retained in the SIP. These sections were retained because the state does not have an equally stringent rule in place which addresses incinerator emissions.

The following are examples of local ordinance provisions which are being removed from the SIP. MDNR and the city of St. Louis have requested that St. Louis Ordinance 50163 be completely removed from the SIP. Sections such as section 4 entitled "Division of Air Pollution Control Created" and section 19 entitled "Labels to be Affixed to Approved Installations" are

administrative only, and are therefore being rescinded from the SIP. Section 17, entitled "Registration of Sources of Air Pollution" is an example of a rule which is being rescinded because the state SIP rules are at least equally as stringent. A final example is section 5 entitled "When Emissions of Pollutants Become Nuisance." This section does not have a bearing on attainment or maintenance of the national ambient air quality standards and is being removed for that reason.

The following are examples of the limited number of local ordinance provisions which are being added to the SIP. MDNR and the city of Kansas City have requested that the EPA add the most recent version of the Kansas City open burning provisions contained in Chapter 8 of the Air Quality Control Code. Section 8-1 entitled "Definitions" and section 8-4 entitled "Open Burning" are being added to the SIP, because they now take the place of comparable provisions from the previous version of the Code which are currently in the SIP. By adding the current version of the Code and concurrently rescinding the old version of the Code, the EPA, the state, and Kansas City will be able to maintain Kansas City air quality in a consistent manner.

On September 26, 1996, Missouri held a public hearing on these revisions and on October 31, 1997, the Missouri Air Conservation Commission adopted these revisions for submittal to the EPA. On March 12, 1997, MDNR submitted the revisions with a request to revise the SIP under the signature of David Shorr (the Governor's designee) and under the signatures of each of the local air pollution control agencies. The revisions include the removal of 157 local ordinance or code sections, the retention of 12 sections, and the addition of 7 sections. The reader should refer to the Technical Support Document for more information regarding the analysis which supports this recommendation.

This consolidation will simplify compliance for many Missouri sources without changing the stringency of the control requirements.

### I. Final Action

This is a direct final action which approves the request submitted by MDNR and its local agencies to consolidate the Federally approved local ordinance and codes in the Federally approved SIP.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse

comments. However, in the proposed rules section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective June 22, 1998 without further notice unless the Agency receives relevant adverse comments by May 22, 1998.

If the EPA receives such comments, then the EPA will publish a notice withdrawing the final rule and informing the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 22, 1998 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

## II. Administrative Requirements

### A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship

under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

### C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

### D. 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. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

*E. Petitions for Judicial Review*

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 June 22, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 25, 1998.

**William Rice,**

*Acting Regional Administrator, Region VII.*

Part 52, chapter I, title 40 of the Code of Federal Regulations 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 AA—Missouri**

2. Section 52.1320 is amended by adding paragraph (c)(103) to read as follows:

**§ 52.1320 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(103) Revisions to the Missouri plan were submitted by the Governor on March 20, 1997.

(i) Incorporation by reference.

(A) St. Louis City Ordinance 59270, Section 4—Definitions, numbers 80. "Open Burning," 100. "Refuse," 108. "Salvage Operation," and 126. "Trade Waste" only; and Section 12, effective October 23, 1984.

(B) St. Louis City Permit No. 96-10-084, issued to Washington University School of Medicine Medical Waste Incinerator, 500 S. Euclid Avenue, effective February 20, 1997.

(C) St. Louis City Permit No. 96-10-083, issued to Washington University School of Medicine Pathological Incinerator, 4566 Scott Avenue, effective February 20, 1997.

(D) St. Louis City Operating Permit, issued to St. Louis University Medical Center Medical Waste Incinerator, 3628 Rutger Avenue, effective August 3, 1992.

(E) Kansas City Air Quality Control Code C.S. No. 56726, Chapter 8, Sections: 8-2, definitions for "Open burning," "Refuse," "Salvage operation," and "Trade waste"; and 8-4, only, effective August 2, 1984.

(F) Remove St. Louis City Ordinance 50163, effective June 11, 1968.

(G) Remove St. Louis City Ordinance 54699, effective March 27, 1967.

(H) Remove St. Louis County Air Pollution Control Code SLCRO, Title VI, Chapter 612, effective February 22, 1967.

(I) Remove Kansas City Air Pollution Control Code C.S. No. 36539, Chapter 18, except sections: 18.83—Definitions, subsections (13) "Incinerators" and (15) "Multiple Chamber Incinerators"; and 18.91—Incinerators, effective August 31, 1972.

(J) Remove City of Springfield Air Pollution Control Standard G.O. No. 1890, Chapter 2A, except sections: 2A-2—Definitions, the definitions for "Director of Health," "Existing Equipment," "Incinerator," "Multiple-chamber incinerator," "New equipment," "Open burning," "Particulate matter," "Refuse," and "Trade waste"; 2A-25; 2A-34; 2A-35; 2A-36; 2A-37; 2A-38; 2A-51; 2A-55; and 2A-56, effective October 12, 1969.

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[VT-006-01-1219a; A-1-FRL-5998-1]

**Approval and Promulgation of Air Quality Implementation Plans; Vermont; VOC Regulations**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Vermont on February 4, 1993, August 9, 1993, and August 10, 1994. These SIP revisions establish requirements for certain categories of sources which emit volatile organic compounds. The intended effect of this action is to approve these regulations into the Vermont SIP. This action is being taken in accordance with the Clean Air Act (CAA).

**DATES:** This rule is effective June 22, 1998 without further notice, unless EPA receives relevant adverse comments by May 22, 1998. If EPA receives such comments, then it will publish a timely document withdrawing this rule.

**ADDRESSES:** Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; and Air Pollution Control Division, Agency of Natural Resources, Building 3 South, 103 South Main Street, Waterbury, VT 05676.

**FOR FURTHER INFORMATION CONTACT:** Anne E. Arnold, (617) 565-3166.

**SUPPLEMENTARY INFORMATION:** On February 4, 1993, August 9, 1993, and August 10, 1994, the State of Vermont submitted formal revisions to its State Implementation Plan (SIP). These SIP revisions consist of regulations to reduce volatile organic compound (VOC) emissions from certain categories of sources.

**I. Summary of SIP revision***Background*

On November 15, 1990, amendments to the 1977 CAA were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. §§ 7401-7671q. Pursuant to the amended CAA, the entire state of Vermont was designated as "unclassifiable/attainment" for ground-level ozone. 56 FR 56694 (Nov. 6, 1991).

Section 184 of the amended CAA, establishes an Ozone Transport Region (OTR) which is comprised of several northeastern states, including Vermont. Section 184(b) requires that states in the OTR implement reasonably available control technology (RACT) for all VOC sources covered by a Control Techniques Guideline (CTG) issued before or after the enactment of the Clean Air Act Amendments of 1990 and for all major VOC sources (defined as 50 tons of VOC emissions per year for sources in the OTR).

A CTG is a document issued by EPA which establishes a "presumptive norm" for RACT for a specific VOC source category. Under the pre-amended CAA, EPA issued CTG documents for 29 categories of VOC sources. Section 183 of the amended CAA requires that EPA issue 13 new (i.e., post-1990) CTGs. Appendix E of the General Preamble of Title I (57 FR 18077) lists the categories