

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[MO 065-1065; FRL-6364-3]

Approval and Promulgation of Air Quality Implementation Plans; Revised Format for Materials Being Incorporated by Reference for Missouri**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule; notice of administrative change.

SUMMARY: EPA is revising the format of 40 CFR part 52 for materials submitted by the state of Missouri 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 the state agency and approved by EPA.

EFFECTIVE DATE: This action is effective June 29, 1999.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region VII, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101; Office of Air and Radiation, Docket and Information Center (Air Docket), Environmental Protection Agency, 401 M Street, SW, Room M1500, Washington, DC 20460; and Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Edward West, Regional SIP Coordinator at the above Region VII address or at (913) 551-7330.

SUPPLEMENTARY INFORMATION: 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 Office of the Federal Register (OFR); the Air and Radiation Docket and Information Center located in Waterside Mall, Washington, DC; and the Region VII Office. The sections of 40 CFR part 52 pertaining to provisions promulgated by EPA or state-submitted materials not subject to IBR review remain unchanged.

The supplementary information is organized in the following order:

Description of a SIP
How EPA Enforces SIPs
How the State and EPA updates the SIP
How EPA Compiles the SIPs
How EPA Organizes the SIP Compilation

Where You Can Find a Copy of the SIP Compilation
The Format of the New Identification of Plan Section
When a SIP Revision Becomes Federally Enforceable
The Historical Record of SIP Revision Approvals
What EPA Is Doing in This Action
How This Document Complies With the Federal Administrative Requirements for Rulemaking

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). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring network, attainment demonstrations, and enforcement mechanisms.

How EPA Enforces SIPs

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them. They are then submitted to EPA as SIP revisions on which EPA must formally act.

Once these control measures and strategies are approved by EPA, after notice and comment, they are incorporated into the Federally approved SIP and are identified in part 52 (Approval and Promulgation of Implementation Plans), Title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the state regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is "IBR." This means that EPA has approved a given state regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. (Where you can find a copy of the SIP compilation.) The information provided allows EPA and the public to monitor the extent to which a state implements the SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

How the State and EPA Updates 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 as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally

approved SIPs, as a result of consultations between EPA and OFR.

EPA began the process of developing: (1) A revised SIP document for each state that would be incorporated by reference under the provisions of 1 CFR part 51; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the IBR document and the CFR; and (3) a revised format of the "Identification of Plan" sections for each applicable subpart to reflect these revised IBR procedures.

The description of the revised SIP document, IBR procedures, and "Identification of Plan" format are discussed in further detail in the May 22, 1997, **Federal Register** document.

How EPA Compiles the SIPs

The Federally approved regulations and source-specific permits submitted by Missouri have been organized by EPA into a SIP compilation that contains the updated regulations and source-specific permits approved by EPA through previous rulemaking actions in the **Federal Register**. The compilations are contained in three-ring binders and will be updated, primarily on an annual basis. The nonregulatory provisions are available by contacting Ed West at the Regional Office.

How EPA Organizes the SIP Compilation

Each compilation contains three parts. Part one contains the state regulations, part two contains the source-specific requirements that have been approved as part of the SIP, and part three contains nonregulatory provisions that have been EPA-approved. Each part consists of a table of identifying information for each regulation, each source-specific permit, and each nonregulatory provision. The effective dates in the tables indicate the date of the most recent revision of the regulation. The table of identifying information in the compilation corresponds to the table of contents published in 40 CFR part 52 for the state. The regional EPA Offices have the primary responsibility for ensuring accuracy and updating the compilations.

Where You Can Find a Copy of the SIP Compilation

The Region VII EPA Office developed and will maintain the compilation for Missouri. A copy of the full text of the state's current compilation will also be maintained at the OFR and EPA's Air Docket and Information Center. Missouri rules are also available electronically at <http://www.epa.gov/>

region07/programs/artd/air/rules/missouri /toc.htm.

The Format of the New Identification of Plan Section

In order to better serve the public, EPA revised the organization of the "Identification of Plan" section and included additional information to clarify the enforceable elements of the SIP.

The revised Identification of Plan section contains five subsections:

1. Purpose and scope
2. Incorporation by reference
3. EPA-approved regulations
4. EPA-approved source-specific permits
5. EPA-approved nonregulatory provisions such as transportation control measures, statutory provisions, control strategies, monitoring networks, etc.

When a SIP Revision Becomes Federally Enforceable

All revisions to the applicable SIP become Federally enforceable as of the effective date of the revisions to paragraphs (c) or (d) of the applicable Identification of Plan section found in each subpart of 40 CFR part 52.

The Historical Record of SIP Revision Approvals

To facilitate enforcement of previously approved SIP provisions and provide a smooth transition to the new SIP processing system, EPA retains the original Identification of Plan section, previously appearing in the CFR as the first or second section of part 52 for each state subpart. After an initial two-year period, EPA will review its experience with the new system and its ability to enforce previously approved SIP measures, and will decide whether or not to retain the Identification of Plan appendices for some further period.

What EPA Is Doing in This Action

Today's action constitutes a "housekeeping" exercise to ensure that all revisions to the state programs that have occurred are accurately reflected in 40 CFR part 52. State SIP revisions are controlled by EPA regulations at 40 CFR part 51. When EPA receives a formal SIP revision request, the Agency must publish the proposed revision in the **Federal Register** and provide for public comment before approval.

EPA has determined that today's action falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed

effective date otherwise provided for in the APA). Today's action simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs.

Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations.

How This Document Complies With the Federal Administrative Requirements for Rulemaking

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866, entitled "Regulatory Planning and Review."

B. E.O. 12875

Under E.O. 12875, *Enhancing the Intergovernmental Partnership*, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments; the nature of their concerns; copies of any written communications from the governments; and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. E.O. 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically

significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. E.O. 13084

Under E.O. 13084, *Consultation and Coordination with Indian Tribal Governments*, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This rule does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic

impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and Subchapter I, Part D of the Clean Air Act (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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more. Under Section 205, 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 EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual 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.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the United States Senate, the United State House of Representatives, and the United States Comptroller General 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).

H. Petitions for Judicial Review

EPA has determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Missouri SIP compilation had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this "Identification of plan" reorganization action.

List of Subjects 40 CFR Part 52

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

Dated: June 11, 1999.

William Rice,

Acting Regional Administrator, Region VII.

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

PART 52—[AMENDED]

1. The authority for 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 redesignated as § 52.1322 and the heading and paragraph (a) are revised to read as follows:

§ 52.1322 Original Identification of Plan Section.

(a) This section identifies the original "Air Implementation Plan for the State of Missouri" and all revisions submitted by Missouri that were Federally approved prior to July 1, 1999.

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3. A new § 52.1320 is added to read as follows:

§ 52.1320 Identification of Plan.

(a) Purpose and scope. This section sets forth the applicable SIP for Missouri under section 110 of the CAA, 42 U.S.C. 7401, and 40 CFR part 51 to meet national ambient air quality standards (NAAQS).

(b) Incorporation by reference.

(1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to July 1, 1999, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after July 1, 1999, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region VII certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated state rules/regulations which have been approved as part of the SIP as of July 1, 1999.

(3) Copies of the materials incorporated by reference may be inspected at the Environmental Protection Agency, Region VII, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101; the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC; or at EPA Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, DC 20460.

(c) EPA-approved regulations.

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
Chapter 1—General Organization				
10-1.010	General Organization	10/1/82	7/21/83, 48 FR 33265.	
Chapter 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area				
10-2.030	Restriction of Emission of Particulate Matter from Industrial Processes.	11/1/79	5/22/81, 46 FR 27932	9/27/84, 49 FR 38103 (correction). 10/5/89, 54 FR 41094 (correction).
10-2.040	Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating.	9/4/84	1/24/85, 50 FR 3337.	
10-2.060	Restriction of Emission of Visible Air Contaminants.	7/1/77	3/18/80, 45 FR 17145	
10-2.080	Emission of Visible Air Contaminants from Internal Combustion Engines.	2/25/70	3/18/80, 45 FR 17145	
10-2.090	Incinerators	2/25/70	3/18/80, 45 FR 17145	The state has rescinded this rule.
10-2.100	Open Burning Restrictions	4/2/84	8/31/84, 49 FR 34484	
10-2.150	Time Schedule for Compliance	2/25/70	3/18/80, 45 FR 17145	
10-2.210	Control of Emissions from Solvent Metal Cleaning.	11/29/91	8/24/94, 59 FR 43480	4/3/95, 60 FR 16806 (correction).
10-2.220	Liquefied Cutback Asphalt Paving Restricted.	6/3/91	6/23/92, 57 FR 27939	
10-2.230	Control of Emissions from Industrial Surface Coating Operations.	11/29/91	8/24/94, 59 FR 43480	4/3/95, 60 FR 16806 (correction).
10-2.260	Control of Petroleum Liquid Storage, Loading, and Transfer.	11/30/95	8/20/97, 62 FR 44219	
10-2.280	Control of Emissions from Perchloroethylene Dry Cleaning Installations.	11/29/91	8/24/94, 59 FR 43480	4/3/95, 60 FR 16806 (correction).
10-2.290	Control of Emissions From Rotogravure and Flexographic Printing Facilities.	3/30/92	8/30/93, 58 FR 45451	The state rule has Sections (6)(A) and (6)(B), which EPA has not approved. 9/6/94, 59 FR 43376 (correction). 4/3/95, 60 FR 16806 (correction). Section (1)(A) is not a part of the SIP.
10-2.300	Control of Emissions from the Manufacturing of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Products.	11/29/91	8/24/94, 59 FR 43480	4/3/95, 60 FR 16806 (correction). Section (1)(A) is not a part of the SIP.
10-2.310	Control of Emissions from the Application of Automotive Underbody Deadeners.	11/29/91	8/24/94, 59 FR 43480	4/3/95, 60 FR 16806 (correction).
10-2.320	Control of Emissions from Production of Pesticides and Herbicides.	11/29/91	8/24/94, 59 FR 43480	4/3/95, 60 FR 16806 (correction).
10-2.330	Control of Gasoline Reid Vapor Pressure.	9/30/97	4/24/98, 63 FR 20318.	
10-2.340	Control of Emissions from Lithographic Printing Facilities.	10/15/91	6/23/92, 57 FR 27939.	
10-2.360	Control of Emissions from Bakery Ovens.	11/30/95	7/20/98, 63 FR 38755.	
10-2.390	Conformity to State Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act.	11/30/96	9/5/97, 62 FR 46880	2/10/98, 63 FR 6645 (correction).
Chapter 3—Air Pollution Control Regulations for the Outstate Missouri Area				
10-3.010	Auto Exhaust Emission Controls	2/1/78	3/18/80, 45 FR 17145.	
10-3.030	Open Burning Restrictions	7/31/98	4/1/99, 64 FR 15688.	
10-3.040	Incinerators	2/1/78	3/18/80, 45 FR 17145	The state has rescinded this rule.
10-3.050	Restriction of Emission of Particulate Matter From Industrial Processes.	10/2/78	7/6/82, 47 FR 29233.	
10-3.060	Maximum Allowable Emissions of Particulate Matter From Fuel Burning Equipment.	9/4/84	1/24/85, 50 FR 3337	EPA has not approved the exemption in Section (7).

EPA-APPROVED MISSOURI REGULATIONS—Continued

Missouri citation	Title	State effective date	EPA approval date	Explanation
10-3.080	Restriction of Emission of Visible Air Contaminants.	4/30/96	11/27/98, 63 FR 65559.	
Chapter 4—Air Quality Standards and Air Pollution Control Regulations for Springfield-Greene County Area				
10-4.030	Restriction of Emission of Particulate Matter From Industrial Processes.	11/1/79	5/22/81, 46 FR 27932	9/24/84, 49 FR 38103 (correction). 10/5/89, 54 FR 41094 (correction).
10-4.040	Maximum Allowable Emission of Particulate Matter From Fuel Burning Equipment Used for Indirect Heating.	9/4/84	1/24/85, 50 FR 3337.	
10-4.060	Restrictions of Emission of Visible Air Contaminants.	7/1/77	3/18/80, 45 FR 17145.	
10-4.080	Incinerators	12/16/69	3/18/80, 45 FR 17145	The state has rescinded this rule.
10-4.090	Open Burning Restrictions	4/2/84	8/31/84, 49 FR 34484.	
10-4.140	Time Schedule for Compliance	12/15/69	3/18/80, 45 FR 17145.	
Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area				
10-5.030	Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating.	9/4/84	1/24/85 50 FR 3337.	
10-5.040	Use of Fuel in Hand-Fired Equipment Prohibited.	9/18/70	3/18/80 45 FR 17145.	
10-5.050	Restriction of Emission of Particulate Matter From Industrial Processes.	11/1/79	5/22/81 46 FR 27932	9/27/84 49 FR 38103 (correction). 10/5/89 54 FR 41094 (correction).
10-5.060	Refuse Not To Be Burned in Fuel Burning Installations.	9/18/70	3/18/80 45 FR 17145	The state has rescinded this rule.
10-5.070	Open Burning Restrictions	4/2/84	8/31/84 49 FR 34484.	
10-5.080	Incinerators	9/18/70	3/18/80 45 FR 17145	The state has rescinded this rule.
10-5.090	Restriction of Emission of Visible Air Contaminants.	7/1/77	4/9/80 45 FR 24140	7/11/80 45 FR 46806 (correction).
10-5.120	Information on Sales of Fuels to be Provided and Maintained.	9/18/70	3/18/80 45 FR 17145.	
10-5.130	Certain Coals to be Washed	9/18/70	3/18/80 45 FR 17145.	
10-5.180	Emission of Visible Air Contaminants from Internal Combustion Engines.	9/18/70	3/18/80 45 FR 17145.	
10-5.220	Control of Petroleum Liquid Storage, Loading and Transfer.	11/30/95	8/20/97 62 FR 44219.	
10-5.240	Additional Air Quality Control Measures May Be Required When Sources Are Clustered in a Small Land Area.	9/18/70	3/18/80 45 FR 17145.	
10-5.250	Time Schedule for Compliance	1/18/72	3/18/80 45 FR 17145.	
10-5.290	More Restrictive Emission Limitations for Sulfur Dioxide and Particulate Matter in the South St. Louis Area.	5/3/82	8/30/82 47 FR 38123	The state has deleted all provisions to N.L. Industries, which is no longer in operation, and has made significant changes to the provisions affecting Carondelet Coke.
10-5.300	Control of Emissions from Solvent Metal Cleaning.	11/29/91	8/24/94 59 FR 43480	4/3/95 60 FR 16806 (correction).
10-5.310	Liquefied Cutback Asphalt Restricted.	3/1/89	3/5/90 55 FR 7712.	
10-5.320	Control of Emissions from Perchloroethylene Dry Cleaning Installations.	11/29/91	8/24/94 59 FR 43480	4/3/95 60 FR 16806 (correction).
10-5.330	Control of Emissions from Industrial Surface Coating Operations.	11/29/91	8/24/94 59 FR 43480	4/3/95 60 FR 16806 (correction).
10-5.340	Control of Emissions From Rotogravure and Flexographic Printing Facilities.	3/30/92	8/30/93 58 FR 45451	The state rule has Section (6)(A)(B), which EPA has not approved.
10-5.350	Control of Emissions From Manufacture of Synthesized Pharmaceutical Products.	11/29/91	8/24/94 59 FR 4348	9/6/94 59 FR 43376 (correction). 04/3/95 60 FR 16806 (Correction Notice).

EPA-APPROVED MISSOURI REGULATIONS—Continued

Missouri citation	Title	State effective date	EPA approval date	Explanation
10-5.360	Control of Emissions from Polyethylene Bag Sealing Operations.	11/29/91	8/24/94 59 FR 43480	4/3/95 60 FR 16806 (Correction Notice).
10-5.370	Control of Emissions from the Application of Deadeners and Adhesives.	11/29/91	8/24/94 59 FR 43480	4/3/95 60 FR 16806 (Correction Notice).
10-5.380	Motor Vehicle Emissions Inspection.	1/3/84	8/12/85 50 FR 32411	
10-5.390	Control of Emissions from Manufacturing of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Products.	11/29/91	8/24/94 59 FR 43480	4/3/95 60 FR 16806 (Correction Notice).
10-5.410	Control of Emissions From Manufacturing of Polystyrene Resin.	11/29/91	8/24/94 59 FR 43480	4/3/95 60 FR 16806 (Correction Notice).
10-5.420	Control of Equipment Leaks from Synthetic Organic Chemical and Polymer Manufacturing Plants.	3/1/89	3/5/90 55 FR 7712.	
10-5.480	Conformity to State Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act.	11/30/96	9/5/97 62 FR 46880	2/10/98 63 FR 6645 (correction).

Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri

10-6.010	Ambient Air Quality	4/18/88	7/31/89 54 FR 31524	The state adopted and submitted a revised ozone standard and a lead standard which EPA never acted on.
10-6.020	Definitions and Common Reference Tables.	5/31/96	5/14/97 62 FR 26405	
10-6.030	Sampling Methods for Air Pollution Sources.	10/31/98	4/1/99 64 FR 15688	
10-6.040	Reference Methods	4/18/88	7/31/89 54 FR 31524	Section 7, pertaining to percent sulfur in liquid hydrocarbons, is not part of the SIP.
10-6.050	Start-up, Shutdown, and Malfunction Conditions.	11/1/79	3/22/81, 46 FR 27932	9/27/84 49 FR 38103 (correction).
10-6.060	Construction Permits Required	3/31/98	12/22/98, 63 FR 70665	Section 9, pertaining to hazardous air pollutants, is not part of the SIP.
10-6.065	Operating Permits	5/31/96,	5/14/97 62 FR 26405	The state rule has sections (4)(A), (4)(B), and (4)(H)—Basic State Operating Permits. EPA has not approved those sections.
10-6.110	Submission of Emission Data, Emission Fees and Process Information.	12/31/95	8/26/97, 62 FR 45166	8/26/97 62 FR 45165 (revision notice).
10-6.120	Restriction of Emissions of Lead from Primary Lead Smelter-Refinery Installations.	5/31/96	3/5/97, 62 FR 9970.	Section (5), Emission Fees, has not been approved as part of the SIP.
10-6.130	Controlling Emissions During Episodes of High Air Pollution.	4/18/88	7/31/89, 54 FR 31524.	2/10/98 63 FR 6648 (correction).
10-6.140	Restriction of Emissions Credit for Reduced Pollutant Concentrations from the Use of Dispersion Techniques.	5/1/86	3/31/89, 54 FR 13184.	
10-6.150	Circumvention	8/15/90	4/17/91 56 FR 15500.	
10-6.170	Restriction of Particulate Matter to the Ambient Air Beyond the Premises of Origin.	9/30/96	1/21/98, 63 FR 3037.	
10-6.180	Measurement of Emissions of Air Contaminants.	11/19/90	7/23/91, 56 FR 33714.	
10-6.210	Confidential Information	1/27/95	2/29/96, 61 FR 7714.	
10-6.260	Restriction of Emission of Sulfur Compounds.	7/31/96	8/27/98, 63 FR 45727	EPA did not approve section (4) of the state rule.

EPA-APPROVED MISSOURI REGULATIONS—Continued

Missouri citation	Title	State effective date	EPA approval date	Explanation
10-6.300	Conformity of General Federal Actions to State Implementation Plans.	8/31/96	5/14/97, 62 FR 26395.	
10-6.330	Charcoal Kilns	6/30/98	12/8/98, 63 FR 67591.	
Missouri Department of Public Safety Division 50—State Highway Patrol Chapter 2—Motor Vehicle Inspection				
50-2.010	Definitions	4/11/82	8/12/85, 50 FR 32411.	
50-2.020	Minimum Inspection Station Requirements.	10/11/82	8/12/85, 50 FR 32411.	
50-2.030	Inspection Station Classification	12/11/77	8/12/85, 50 FR 32411.	
50-2.040	Private Inspection Stations	5/31/74	8/12/85, 50 FR 32411.	
50-2.050	Inspection Station Permits	11/11/79	8/12/85, 50 FR 32411.	
50-2.060	Display of Permits, Signs and Poster.	11/31/74	8/12/85, 50 FR 32411.	
50-2.070	Hours of Operation	11/11/83	8/12/85, 50 FR 32411.	
50-2.080	Licensing of Inspector/Mechanics ..	4/13/78	8/12/85, 50 FR 32411.	
50-2.090	Inspection Station Operational Requirements.	8/11/78	8/12/85, 50 FR 32411.	
50-2.100	Requisition of Inspection Stickers and Decals.	6/12/80	8/12/85, 50 FR 32411.	
50-2.110	Issuance of Inspection Stickers and Decals.	12/11/77	8/12/85, 50 FR 32411.	
50-2.120	MVI-2 Form	11/11/83	8/12/85, 50 FR 32411.	
50-2.130	Violations of Laws or Rules Penalty.	5/31/74	8/12/85, 50 FR 32411.	
50-2.260	Exhaust System	5/31/74	8/12/85, 50 FR 32411.	
50-2.280	Air Pollution Control Devices	12/11/80	8/12/85, 50 FR 32411.	
50-2.290	Fuel Tank	5/3/74	8/12/85, 50 FR 32411.	
50-2.350	Applicability of Motor Vehicle Emission Inspection.	5/1/84	8/12/85, 50 FR 32411.	
50-2.360	Emission Fee	11/1/83	8/12/85, 50 FR 32411.	
50-2.370	Inspection Station Licensing	12/21/90	10/13/92, 57 FR 46778.	
50-2.380	Inspector/Mechanic Licensing	11/1/83	8/12/85, 50 FR 32411.	
50-2.390	Safety/Emission Stickers	11/1/83	8/12/85, 50 FR 32411.	
50-2.400	Emission Test Procedures	6/15/87	9/15/88, 53 FR 35820	Subsections (3)(B)3, (4)(A), (4)(B), (4)(B)1 and 2, (4)(B)5, and a portion of (4)(B)6 are not approved as part of the SIP.
50-2.401	General Specifications	12/21/90	10/13/92, 57 FR 46778.	
50-2.402	MAS Software Functions	12/21/90	10/13/92, 57 FR 46778	The SIP does not include Section (6), Safety Inspection.
50-2.403	Missouri Analyzer System (MAS) Display and Program Requirements.	12/21/90	10/13/92, 57 FR 46778	The SIP does not include Section (3)(B)4, Safety Inspection Sequences or (3)(M)5(I), Safety Inspection Summary.
50-2.404	Test Record Specifications	12/21/90	10/13/92, 57 FR 46778	The SIP does not include Section (5), Safety Inspection Results.
50-2.405	Vehicle Inspection Certificate, Vehicle Inspection Report, and Printer Function Specifications.	12/21/90	10/13/92, 57 FR 46778.	
50-2.406	Technical Specifications for the MAS.	12/21/90	10/13/92, 57 FR 46778.	
50-2.407	Documentation, Logistics and Warranty Requirements.	12/21/90	10/13/92 57 FR 46778.	
50-2.410	Vehicles Failing Reinspection	12/21/90	10/13/92, 57 FR 46778.	
50-2.420	Procedures for Conducting Only Emission Tests.	12/21/90	10/13/92, 57 FR 46778.	
Kansas City Article III—Air Pollution				
18.83	Definitions	10/31/96	4/22/98, 63 FR 19823.	
18.91	Incinerators	10/31/96	4/22/98, 63 FR 19823.	
Kansas City Chapter 8—Air Quality				
8-2	Definitions	10/31/96	4/22/98, 63 FR 19823.	
8-4	Open Burning	10/31/96	4/22/98, 63 FR 19823.	

EPA-APPROVED MISSOURI REGULATIONS—Continued

Missouri citation	Title	State effective date	EPA approval date	Explanation
Springfield—Chapter 2A—Air Pollution Control Standards				
Article I.	Definitions	10/31/96	4/22/98, 63 FR 19823	Only Section 2A-2 is approved by EPA.
Article VII.	Stack Emission Test Method	10/31/96	4/22/98, 63 FR 19823	Only Section 2A-25 is approved by EPA.
Article IX.	Incinerator	10/31/96	4/22/98, 63 FR 19823	Only Sections 2A-34 through 38 are approved by EPA.
Article XX.	Test Methods and Tables	10/31/96	4/22/98, 63 FR 19823	Only Sections 2A-51, 55, and 56 are approved by EPA.
St Louis City Ordinance 59270				
Section 4	Definitions	10/31/96	4/22/98, 63 FR 19823.	
Section 12	Open Burning Restrictions	10/31/96	4/22/98, 63 FR 19823.	

(d) EPA-approved state source-specific permits and orders.

EPA—Approved Missouri Source Specific Permits and Orders

Name of source	Order/permit number	State effective date	EPA approval date	Explanation
ASARCO Inc. Lead Smelter Glover, MO	Order	8/13/80	4/27/81, 46 FR 23412.	
St. Joe Lead (Doe Run) Company Lead Smelter Herculaneum, MO.	Order	3/21/84	6/11/84, 49 FR 24022.	
AMAX Lead (Doe Run) Company Lead Smelter Boss, MO.	Order	9/27/84	1/7/85, 50 FR 788.	
Gusdorf Operating Permit 11440 Lackland Road St Louis County, MO.	Permit Nos: 04682-04693.			
4/29/80 (St Louis County)	10/15/84, 49 FR 40164.			
Doe Run Lead Smelter Herculaneum, MO.	Consent Order	3/9/90	3/6/92, 57 FR 8077.	
Doe Run Lead Smelter Herculaneum, MO.	Consent Order	8/17/90	3/6/92, 57 FR 8077.	
Doe Run Lead Smelter Herculaneum, MO.	Consent Order	7/2/93	5/5/95, 60 FR 22334.	
Doe Run Lead Smelter Herculaneum, MO.	Consent Order (Modification)	4/28/94	5/5/95, 60 FR 22334.	In a notice published on 8/15/97 at 62 FR 43647, EPA required implementation of the contingency measures.
Doe Run Lead Smelter Herculaneum, MO.	Consent Order (Modification)	11/23/94	5/5/95, 60 FR 22334.	
Doe Run Buick Lead Smelter Boss, MO	Consent Order	7/2/93	8/4/95, 60 FR 39851.	
Doe Run Buick Lead Smelter Iron County, MO.	Consent Order (Modification)	9/29/94	8/4/95, 60 FR 39851.	
ASARCO Glover Lead Smelter Glover, MO.	Consent Decree CV596-98CC with exhibits A-G.	7/30/96	3/5/97, 62 FR 9970.	
St Louis City Incinerator Permits				
Washington University School of Medicine.	Pathological Incinerator (RETORT) Permit No. 96-10-083.	2/20/97	4/22/98, 63 FR 19823.	
Washington University School of Medicine.	Medical Waste Incinerator Permit No. 96-10-084.	2/20/97	4/22/98, 63 FR 19823.	
St Louis University	Medical Waste Incinerator	9/22/92	4/22/98, 63 FR 19823.	

(e) EPA approved nonregulatory provisions and quasi-regulatory measures.

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment Area	State submittal date	EPA approval date	Explanation
Kansas City and Outstate Air Quality Control Regions Plan.	Kansas City and Outstate.	1/24/72	5/31/72, 37 FR 10875.	
Implementation Plan for the Missouri portion of the St. Louis Interstate Air Quality Control Region.	St. Louis	1/24/72	5/31/72, 37 FR 10875.	
Effects of adopting Appendix B to NO ² emissions.	St. Louis	3/27/72	5/31/72, 37 FR 10875.	
CO air quality data base	St. Louis	5/2/72	5/31/72, 37 FR 10875.	
Budget and manpower projections	Statewide	2/28/72	10/28/72, 37 FR 23089.	
Emergency episode manual	Kansas City	5/11/72	10/28/72, 37 FR 23089.	
Amendments to Air Conservation Law	Statewide	7/12/72	10/28/72, 37 FR 23089.	
Air monitoring plan	Outstate	7/12/72	10/28/72, 37 FR 23089.	
Amendments to Air Conservation Law	Statewide	8/8/72	10/28/72, 37 FR 23089.	
Transportation control strategy	Kansas City	5/11/73, 5/21/73,	6/22/73 38 FR 16566.	
Analysis of ambient air quality data and recommendation to not designate the area as an air quality maintenance area.	Kansas City	4/11/74	3/2/76, 41 FR 8962.	
Recommendation to designate air quality maintenance areas.	St. Louis, Columbia, Springfield.	5/6/74	9/9/75, 40 FR 41950.	
Plan to attain the NAAQS	Kansas City St. Louis	7/2/79 4/9/80, 45 FR ..	24140	Correction notice published 7/11/80.
Schedule for I/M program and commitment regarding difficult transportation control measures (TCMs).	St. Louis	9/9/80	3/16/81, 46 FR 16895	
Lead SIP	Statewide	9/2/80, 2/11/81, 2/13/81.	4/27/81, 46 FR 23412 7/19/84, 49 FR 29218	Correction notice published 5/15/81.
Report on recommended I/M program	St. Louis	12/16/80	8/27/81, 46 FR 43139	No action was taken on the specific recommendations in the report.
Report outlining commitments to TCMs, analysis of TCMs, and results of CO dispersion modeling.	St. Louis	2/12/81, 4/28/81	11/10/81, 46 FR 55518.	
1982 CO and ozone SIP	St. Louis	12/23/82, 8/24/83	10/15/84, 49 FR 40164.	
Air quality monitoring plan	Statewide	6/6/84	9/27/84, 49 FR 38103.	
Vehicle I/M program	St. Louis	8/27/84	8/12/85, 50 FR 32411.	
Visibility protection plan	Hercules Glades and Mingo Wildlife Area.	5/3/85	2/10/86, 51 FR 4916.	
Plan for attaining the ozone standard by December 31, 1987.	St. Louis	8/1/85	9/3/86, 51 FR 31328.	
PM ¹⁰ plan	Statewide	3/29/88, 6/15/88	7/31/89, 54 FR 31524.	
Construction permit fees including Chapter 643 RSMo.	Statewide	1/24/89, 9/27/89	1/9/90, 55 FR 735.	
PSD NO _x requirements including a letter from the state pertaining to the rules and analysis.	Statewide	7/9/90	3/5/91, 56 FR 9172.	
Lead plan	Herculaneum	9/6/90, 5/8/91	3/6/92, 57 FR 8076.	
Ozone maintenance plan	Kansas City	10/9/91	6/23/92, 57 FR 27939.	
Small business assistance plan	Statewide	3/10/93	10/26/93, 58 FR 57563.	
Part D Lead plan	Herculaneum	7/2/93, 6/30/94, 11/23/94.	5/5/95, 60 FR 22274.	
Intermediate permitting program including three letters pertaining to authority to limit potential to emit hazardous air pollutants.	Statewide	3/31/94, 11/7/94, 10/3/94, 2/10/95.	9/25/95, 60 FR 49340.	
Part D lead plan	Bixby	7/2/93, 6/30/94	8/4/95, 60 FR 39851.	
Transportation conformity plans including a policy agreement and a letter committing to implement the state rule consistent with the Federal transportation conformity rule.	St. Louis, Kansas City	2/14/95	2/29/96, 61 FR 7711.	
Emissions inventory update including a motor vehicle emissions budget.	Kansas City	4/12/95	4/25/96, 61 FR 18251.	
Part D Lead Plan	Glover	8/14/96	3/5/97, 62 FR 9970.	
CO Maintenance Plan	St. Louis	6/13/97, 6/15/98	1/26/99, 64 FR 3855.	

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ079-0014; FRL-6365-9]

RIN 2060-A122

Approval and Promulgation of Implementation Plans; Arizona— Maricopa Nonattainment Area; PM-10

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving under the Clean Air Act (CAA or Act) a revision to the Arizona State Implementation Plan (SIP) reflecting Arizona State legislation that provides for the expeditious implementation of best management practices to reduce fugitive dust from agricultural sources in the Maricopa County (Phoenix) PM-10 nonattainment area. Because EPA is approving the State legislation as meeting the reasonably available control measure (RACM) requirements of the Act, EPA is also withdrawing a federal implementation plan (FIP) commitment, promulgated under section 110(c) of the Act, to adopt and implement RACM for agricultural fields and aprons in the Maricopa area.

EFFECTIVE DATE: July 29, 1999.

FOR FURTHER INFORMATION CONTACT: John Ungvarsky at (415) 744-1286, Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street (AIR2), San Francisco, CA 94105. This document is also available as an electronic file on EPA's Region 9 web page at <http://www.epa.gov/region09/air>.

SUPPLEMENTARY INFORMATION:

I. Background

A. Clean Air Act Requirements

1. Designation and Classification

Portions of Maricopa County¹ are designated nonattainment for the PM-10 national ambient air quality standards (NAAQS)² and were

¹ "Maricopa," "Maricopa County" and "Phoenix" are used interchangeably throughout this final rule to refer to the nonattainment area.

² There are two PM-10 NAAQS, a 24-hour standard and an annual standard. 40 CFR 50.6. EPA promulgated these NAAQS on July 1, 1987 (52 FR 24672), replacing standards for total suspended particulate with new standards applying only to particulate matter up to 10 microns in diameter (PM-10). At that time, EPA established two PM-10 standards. The annual PM-10 standard is attained

originally classified as "moderate" pursuant to section 188(a) of the Clean Air Act (CAA or Act). 56 FR 11101 (March 15, 1991). On May 10, 1996, EPA reclassified the Maricopa County PM-10 nonattainment area to "serious" under CAA section 188(b)(2). 61 FR 21372. Having been reclassified, Phoenix is required to meet the serious area requirements in the CAA, including a demonstration that best available control measures (BACM) will be implemented by June 10, 2000. CAA sections 188(c)(2) and 189(b). While the Phoenix PM-10 nonattainment area is currently classified as serious, today's actions relate only to the moderate area statutory requirements.

Pursuant to section 189(b)(2), the State of Arizona was required to submit a serious area plan addressing both PM-10 NAAQS for the area by December 10, 1997. The State has not yet submitted that plan.

2. Moderate Area Planning Requirements and EPA Guidance

The air quality planning requirements for PM-10 nonattainment areas are set out in subparts 1 and 4 of Title I of the Clean Air Act. Those states containing initial moderate PM-10 nonattainment areas were required to submit, among other things, by November 15, 1991 provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may

when the expected annual arithmetic average of the 24-hour samples for a period of one year does not exceed 50 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). The 24-hour PM-10 standard of $150 \mu\text{g}/\text{m}^3$ is attained if samples taken for 24-hour periods have no more than one expected exceedance per year, averaged over 3 years. See 40 CFR 50.6 and 40 CFR part 50, Appendix K.

On July 18, 1997, EPA revised both the annual and the 24-hour PM-10 standards and also established two new standards for PM, both applying only to particulate matter up to 2.5 microns in diameter (PM-2.5) (62 FR 38651). Today's actions relate only to the CAA requirements concerning the 24-hour and annual PM-10 standards as originally promulgated in 1987.

On May 14, 1999, the U.S. Court of Appeals for the D.C. Circuit in *American Trucking Assoc., Inc., et al. v. USEPA*, No. 97-1440 (May 14, 1999) issued an opinion that, among other things, vacated the new standards for PM-10 that were published on July 18, 1997 and became effective September 16, 1997. However, the PM-10 standards promulgated on July 1, 1987 were not an issue in this litigation, and the Court's decision does not affect the applicability of those standards in the Maricopa area. Codification of those standards continues to be recorded at 40 CFR 50.6. In the notice promulgating the revised PM-10 standards, the EPA Administrator decided that the previous PM-10 standards that were promulgated on July 1, 1987, and provisions associated with them, would continue to apply in areas subject to the 1987 PM10 standards until certain conditions specified in 40 CFR 50.6(d) are met. See 62 FR at 38701. EPA has not taken any action under 40 CFR 50.6(d) for the Maricopa area.

be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993. CAA sections 172(c)(1) and 189(a)(1)(C).³ Since that deadline has passed, EPA has concluded that the required RACM/RACT must be implemented "as soon as possible." *Delaney v. EPA*, 898 F.2d 687, 691 (9th Cir. 1990). EPA has interpreted this requirement to be "as soon as practicable." See 55 FR 41204, 41210 (October 1, 1990) and 63 FR 28898, 28900 (May 27, 1998).

EPA has issued a "General Preamble"⁴ describing EPA's preliminary views on how the Agency intends to review state implementation plans (SIPs) and SIP revisions submitted under Title I of the Act, including those state submittals containing moderate PM-10 nonattainment area SIP provisions. The methodology for determining RACM/RACT is described in detail in the General Preamble. 57 FR 13498, 13540-13541. With respect to PM-10, Appendix C1 of the General Preamble suggests starting to define RACM with the list of available control measures for fugitive dust and adding to this list any additional control measures proposed and documented in public comments. Any measures that apply to de minimis emission sources of PM-10, or any measures that are unreasonable for technology reasons or because of the cost of the control in the area can then be culled from the list. In addition, potential RACM may be culled from the list if a measure cannot be implemented on a schedule that would advance the date for attainment in the area. 57 FR 13498, 13560. 57 FR 18070, 18072 (April 28, 1992).

Moderate area plans were also required to meet the generally applicable SIP requirements for reasonable notice and public hearing under section 110(a)(2), necessary assurances that the implementing

³ States with moderate PM-10 areas were also required to submit either a demonstration that the plan would provide for attainment as expeditiously as practicable but no later than December 31, 1994 or a demonstration that attainment by that date is impracticable (CAA section 189(a)(1)(B)); and, for plan revisions demonstrating impracticability, a demonstration of reasonable further progress (RFP) meeting the requirements of CAA sections 172(c)(2) and 171(1). Section 171(1) defines RFP as "such annual incremental reductions in emissions of the relevant air pollutant as are required by part D of the Act or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable attainment date."

⁴ See "State Implementation Plans: General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," (General Preamble) 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992).