

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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

Dated: February 6, 1996.

Dennis Grams,

*Regional Administrator.*

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. 7401-7671q.

#### **Subpart AA—Missouri**

2. Section 52.1320 is amended by adding paragraph (c)(92) to read as follows:

#### **§ 52.1320 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(92) On February 14, 1995, the Missouri Department of Natural Resources submitted two new rules which pertain to transportation conformity in Kansas City and St. Louis.

(i) Incorporation by reference.

(A) New rule 10 CSR 10-2.390 (except section (20) Criteria and Procedures: Interim Period Reductions in Ozone Areas (TIP)) and 10 CSR 10-5.480 (except section (22) Criteria and Procedures: Interim Period Reductions in Ozone Areas (TIP)), both entitled 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, effective May 28, 1995.

(ii) Additional material.

(A) Missouri's Air Pollution Control Plan, St. Louis Metropolitan Area Ozone and Carbon Monoxide Transportation Conformity, January 12, 1995.

(B) Missouri's Air Pollution Control Plan, Kansas City Metropolitan Area Ozone Transportation Conformity, January 12, 1995.

(C) Policy agreement, entered into between the Missouri Department of Natural Resources, the Mid-America Regional Council, and the Highway and Transportation Commission of the state of Missouri, dated August 31, 1993.

(D) Letter from the state of Missouri to EPA, dated December 7, 1995, in which the state commits to implementing its state rule consistent with the Federal Transportation Conformity rule, as amended on August 29, 1995, with regards to the granting of an NO<sub>x</sub> waiver and the NO<sub>x</sub> conformity requirements.

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#### **40 CFR Part 52**

[OAQPS 6542; FRL-5426-8]

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

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

**ACTION:** Final rule.

**SUMMARY:** The purpose of this revision to the Missouri State Implementation Plan (SIP) is to revise the Missouri Part D new source review (NSR) rules, update and add numerous definitions, revise the maximum allowable increase for particulate matter under the requirements for prevention of significant deterioration (PSD) of air quality, address emission statements under Title I of the Clean Air Act Amendments (CAAA), and generally enhance the SIP.

The objective of this final rule is to approve into the Missouri SIP rules adopted by the state which meet the requirements of the Clean Air Act (CAA) as amended in 1990 with regard to NSR in areas that have not attained the national ambient air quality standard. This implementation plan revision was submitted by the state pursuant to Federal requirements for an approvable NSR SIP for Missouri.

**EFFECTIVE DATE:** This rule will be effective on April 1, 1996.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA Air, RCRA, and Toxics Division, 726 Minnesota Avenue, Kansas City, Kansas 66101; and at the EPA Air and Radiation docket and Information Center, 401 M Street, S.W., Washington, DC 20460.

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

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On April 3, 1995, at 60 FR 16824 the EPA proposed to approve the SIP revision by the state of Missouri that revises the Missouri Part D NSR rules, updates and adds numerous definitions, revises the maximum allowable increase for particulate matter under the requirements for PSD of air quality, addresses emission statements under Title I of the CAAA, and generally enhances the SIP.

The Federal Register proposal provided that the final rule was contingent upon Missouri modifying the language in its definition of the term "construction" to prohibit major sources from commencing construction before a permit had been issued. The proposal also required the construction permit rule be modified to prohibit the taking of offset credits for emission reductions required under either Federal law or a Federally enforceable permit.

The EPA is currently developing a proposed rule to assist the implementation of the changes under the amended Act in the NSR provisions in Parts C and D of Title I of the Act. EPA will refer to the proposed rule as the most authoritative guidance available regarding the approvability of submittals. Upon promulgation of the final regulations, EPA will review the NSR SIPs of all states to determine whether additional SIP revisions are necessary.

##### **II. Construction Permits Required—10 CSR 10-6.060**

###### **A. General Nonattainment NSR Nonattainment Permit Requirements**

In the April 3, 1995, proposal to approve the SIP revision by the state of Missouri that revises the Missouri Part D NSR rules, 11 CAA requirements were addressed in detail. These requirements consist of the following and are discussed at 60 FR 16825-6: (1) Offset ratios, (2) geographical location of offsets, (3) timing of offsets, (4) actual emissions reductions, (5) NO<sub>x</sub> requirements, (6) creditable reductions, (7) prohibition on old growth allowances, (8) analysis of alternatives, (9) reasonable further progress, (10) reasonably available control technology/best available control technology/lowest achievable emission rate clearinghouse information, and (11) stationary source definition. Each of these requirements has been thoroughly addressed in the proposal and the reader is referred to that document for further discussion. Missouri has satisfied each of these Federal requirements.

## B. Missouri Construction Permit Program Corrections

### 1. Particulate Matter

After the December 1993 rule adoption by the Missouri Air Conservation Commission (MACC), the Class I variance table found at 10 CSR 10-6.060(12)(H)2 did not reflect the revised PM<sub>10</sub> numerical maximum allowable increases as set forth at 40 FR § 51.166(p)(4). In the April 3, 1995, proposal, EPA identified this omission as a correction to be made prior to EPA's final action to approve the rule. With the March 30, 1995, MACC rule adoption, the table at 10 CSR 10-6.060(12)(H)2 now includes PM<sub>10</sub> as a pollutant with numerical values at least as stringent as those found at 40 CFR § 51.166(p)(4). Missouri's rule now satisfies the PM<sub>10</sub> requirement.

### 2. Waiver Policy

Before the March 30, 1995, MACC rule adoption, the Missouri Construction Permits Required rule, 10 CSR 10-6.060, in conjunction with the definition of "construction" at 10 CSR 10-6.020(2)(C)22, could be interpreted as allowing major sources to commence construction without a permit in contravention of CAA and EPA regulations. That definition of "construction" allowed for synthetic minor sources, those that are major in reality but which seek Federally enforceable limitations to limit their potential to emit, to submit a waiver request to the Missouri Department of Natural Resources (MDNR) allowing the source to commence limited and specified construction activities. In the April 3, 1995, proposal, EPA stated that the waiver provision must be omitted before the rule could be approved. The recently adopted definition of "construction" at 10 CSR 10-6.020(2)(C)22 deletes the reference to authorization to construct if the applicant submits a signed waiver. This current definition of "construction" is approvable into the SIP.

### 3. Offset Credits

At the time the proposed rulemaking (60 FR 16824, April 3, 1995) was published in the Federal Register, the Missouri construction rule, 10 CSR 10-6.060, lacked a prohibition on taking offset credits for emission reductions which are required by Federal law or a Federally enforceable permit. The proposal identified this omission as a change to be made before EPA could approve the rule. The language at 10 CSR 10-6.060(12)(C)4 has been modified by Missouri to include that prohibition. As regards offset credits,

the Missouri rule now satisfies this requirement and is approvable into the SIP.

### C. Commenced Construction

Under the applicability provisions of 10 CSR 10-6.060(1)(C), no owner or operator shall commence construction or modification of any installation subject to the construction permits rule, unless it meets certain threshold requirements set forth in the rule and it first obtains a permit. The Missouri rules define "commenced" at 10 CSR 10-6.020(C)15 as "an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a binding agreement or contractual obligation to undertake and complete within a reasonable time, a continuous program of construction or modification." When these two provisions are read together, the rules appear to prohibit a source from entering into a contractual relationship pertaining to construction before obtaining a permit. Since the Missouri provisions are at least as stringent as Federal law at 40 CFR § 51.166(i)(1), they are approvable into the SIP.

### III. Update to Definitions Found in 10 CSR 10-6.020

There are many definitions which are being revised within or added to the SIP. Many of these definitions pertain to the Title V and asbestos programs. These definitions are being approved into the SIP because they provide overall consistency in the use of terms in the air program. Because many of these terms do pertain to Title V, it is important to recognize that EPA approval into the SIP of these definitions does not constitute approval with respect to the Title V submission. This approval of the definitions is only for purposes of the SIP in the context of the requirements of section 110 of the Act, and other provisions of the Act referenced in section 110. The reader is referred to the technical support document for clarification on changes to definitions and additions to the list of definitions.

### IV. Confidential Information—10 CSR 10-6.210

The information set forth in the April 3, 1995, proposed rule (60 FR 16827) describes this rule and explains EPA's rationale for approval of the rule.

### V. Emission Statement Rule—10 CSR 10-6.110

The information set forth in the April 3, 1995, proposed rule (60 FR 16827)

describes this rule and explains EPA's rationale for approval of the rule.

### EPA Action

In this document, EPA takes final action on the rulemaking to provide clarification on offset requirements; provide for the treatment of economic development zones; and require that the relative benefits of alternative sites, production processes, and control steps must be considered prior to approval of a new source permit. In addition, the rulemaking addresses corrections to Missouri's definition rule; confidential information rule; and the rule pertaining to the submission of emission data, fees, and process information.

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.

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, EPA 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 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)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to state, local, or tribal governments in the

aggregate. The Missouri revisions have no impact on tribal governments.

Through submission of this plan revision, the state has elected to adopt the program provided for under section 110 of the CAA. These rules may bind state and local governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being finalized for approval by this action will impose new requirements, sources are already subject to these regulations under state law. Accordingly, no additional costs to state or local governments, or to the private sector, result from this final action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to state or local governments in the aggregate or to the private sector.

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 April 29, 1996. 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).)

The OMB has exempted these actions from review under Executive Order 12866.

#### List of Subjects in 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, Volatile organic compounds.

Dated: December 6, 1995.

Dennis Grams,

*Regional Administrator.*

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. 7401–7671q.

#### **Subpart AA—[Missouri]**

2. Section 52.1320 is amended by adding paragraph (c)(86) to read as follows:

#### **§ 52.1320 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(86) A revision to the Missouri SIP to revise the Missouri part D NSR rules, update and add numerous definitions, revise the maximum allowable increase for particulate matter under the requirements for PSD of air quality, address emission statements under Title I of the CAA, and generally enhance the SIP.

(i) Incorporation by reference.

(A) Revision to rules 10 CSR 10–6.020, Definitions and Common Reference Tables, effective August 30, 1995; 10 CSR 10–6.060, Construction Permits Required, effective August 30, 1995; 10 CSR 10–6.110, Submission of Emission Data, Emission Fees, and Process Information, effective May 9, 1994; and 10 CSR 10–6.210, Confidential Information, effective May 9, 1994.

(ii) Additional material. None.

\* \* \* \* \*

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#### **40 CFR Part 63**

[AD–FRL–5431–2]

RIN 2060–AC19

#### **National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks**

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

**ACTION:** Direct final rule.

**SUMMARY:** On April 10, 1995, the EPA amended certain portions of the “National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks.” This rule is commonly known as the Hazardous Organic NESHAP or the HON. In that action, the EPA revised the rule to provide a deferral of HON requirements for source owners or operators who wish to make an area source certification and to establish minimum documentation requirements. This action revises the date for submittal of those area source certifications and clarifies the wording of the documentation requirements.

This action is being taken because the EPA has learned that sufficient time was not provided to prepare the certifications and that some confusion exists regarding the required documentation.

This action also extends the April 22, 1996 deadline for submittal of implementation plans for emission points not included in an emissions average to December 31, 1996. The deadline for submitting these plans is being extended because the EPA anticipates making further revisions to the rule in the near future that could affect the contents of the implementation plan. In light of this, the EPA thinks it is appropriate to delay this report until there is greater certainty regarding the compliance requirements.

**DATES:** The direct final rule will be effective April 19, 1996, unless significant, adverse comments are received by April 1, 1996. If significant, adverse comments are timely received on any portion of the direct final rule, that portion of the direct final rule will be withdrawn.

**ADDRESSES:** Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–90–20, Room M–1500, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Dr. Janet S. Meyer, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5254.

**SUPPLEMENTARY INFORMATION:** If significant adverse comments are timely received on any portion of this direct final rule, that portion of the direct final rule will be withdrawn and all such comments will be addressed in a subsequent final rule based on the proposed rule contained in the Proposed Rules Section of this Federal Register that is identical to this direct final rule. If no significant adverse comments are timely received on this direct final rule, then the direct final rule will become effective April 19, 1996, and no further action is contemplated on the parallel proposal published today.

I. Background and Summary of Changes to Rule

On April 22, 1994 (59 FR 19402), and June 6, 1994 (59 FR 29196), the EPA promulgated in the Federal Register National Emission Standards for Hazardous Air Pollutants (NESHAP) for