

Dated: August 26, 1997.

T.W. Josiah,

*Rear Admiral, U.S. Coast Guard, Commander,
Eighth Coast Guard District.*

[FR Doc. 97-23518 Filed 9-4-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08-97-033]

Drawbridge Operations; Gulf Intracoastal Waterway, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the SR 27 vertical lift span drawbridge across the Gulf Intracoastal Waterway, mile 243.8, west of Harvey Lock, at Ellender, Calcasieu Parish, Louisiana. This deviation allows the bridge to remain closed to navigation between the hours of 3 a.m. and 11 a.m. on September 6, 1997. This closure is necessary to facilitate movement of vehicular traffic for a continuous concrete pouring operation scheduled for that day.

DATES: The deviation is effective from 3 a.m. until 11 a.m. on September 6, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Johnson, Bridge Administration Branch, Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130-3396, telephone number (504) 589-2965.

SUPPLEMENTARY INFORMATION: The SR 27 vertical lift span drawbridge across the Gulf Intracoastal Waterway, mile 243.8, west of Harvey Lock, at Ellender, Calcasieu Parish, Louisiana has a vertical clearance of 50 feet above mean high water in the closed to navigation position and 135 feet above mean high water in the open to navigation position. Navigation on the waterway consists of tugs with tows, including crane barges, commercial fishing vessels, sailing vessels and other recreational craft. The Louisiana Department of Transportation and Development has requested a temporary deviation from the normal operation of the bridge so that the contractor can conduct a continuous concrete pour operation at the U.S. Department of Energy Storage Site at Hackberry, Louisiana. This operation will require that approximately 35 cement trucks deliver pre-mixed concrete to the site on a perpetual

traveling schedule. Delays to vehicular traffic due to drawbridge openings at the SR 27 bridge would jeopardize this time sensitive procedure.

Presently, the draw is required to open on signal if at least four hours' notice is given. This deviation allows the draw to remain closed to navigation between the hours of 3 a.m. and 11 a.m. on September 6, 1997.

Dated: August 26, 1997.

T.W. Josiah,

*Rear Admiral, U.S. Coast Guard, Commander,
Eighth Coast Guard District.*

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 034-1034(a); FRL-5886-3]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves revisions in the Missouri state rules regarding conformity requirements in Kansas City and St. Louis. These changes are made to incorporate amendments in the Federal transportation conformity rule effective on November 14, 1995.

DATES: This action is effective November 4, 1997, unless, by October 6, 1997, adverse or critical comments are received.

ADDRESSES: 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: Christopher D. Hess at (913) 551-7213.

SUPPLEMENTARY INFORMATION:

I. Background

On November 14, 1995, the EPA published a set of amendments to the Federal rule on transportation conformity contained in 40 CFR 51.390-464 (subpart T). The state of Missouri has adopted changes in 10 CSR 10-2.390 (for Kansas City) and 10 CSR 10-5.480 (for St. Louis) in order to parallel

and incorporate the Federal revisions. These revisions were submitted to the EPA in letters dated January 10, 1997, and February 2, 1997, for the areas of Kansas City and St. Louis, respectively.

These submissions were deemed complete in letters to the state dated February 25, 1997, and March 5, 1997. The state provided evidence of the lawful adoption of regulations, public notice, and public hearing requirements.

Both state rules were submitted to EPA for review on July 3, 1996. The EPA requested two minor revisions in a letter dated July 23, 1996, which the state made prior to adoption of both rules on July 25, 1996. The rules became effective on December 30, 1996.

II. Analysis

The state has essentially adopted the November 14, 1995, amendments to the transportation conformity rule in their entirety, while organizing the respective rules into the established state regulatory structure and numbering system. Some minor differences between the Federal and state rule exist, such as the state's inclusion of a definition for "consultation" and specifying the metropolitan planning organizations in the Kansas City and St. Louis area.

The respective rules for Kansas City (an ozone maintenance area) and St. Louis (an ozone and carbon monoxide (CO) nonattainment area) are nearly identical to one another and to the requirements of the Federal rule, except where the St. Louis rules include definitions and procedures for a CO nonattainment area, which is not required in the Kansas City rules. For an explanation of the specific changes in the state's rule to meet Federal requirements, the reader may request the "Technical Support Document (TSD) for a Revision to the Missouri State Implementation Plan (SIP)," dated July 25, 1997. The revisions are appropriate, required, and fully approvable by the EPA.

III. Final Action

The EPA is approving revisions submitted on January 10, 1997, and February 2, 1997, which meet the requirements of the transportation conformity amendments dated November 14, 1995. This meets the Federal requirements set forth in 40 CFR 51, subpart T.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to

approve the SIP revision should adverse or critical comments be filed. This action is effective November 4, 1997, unless, by October 6, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action is effective November 4, 1997.

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.

IV. 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 General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA submitted 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 General Accounting Office prior to publication of this rule in today's **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 November 4, 1997. 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 15, 1997.

William Rice,

Acting 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)(101) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(101) On January 10, 1997, and February 2, 1997, the Missouri Department of Natural Resources submitted revised rules pertaining to transportation conformity.

(i) Incorporation by reference.

(A) Regulation 10 CSR 10-2.390, 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 December 30, 1996.

(B) Regulation 10 CSR 10-5.480, 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 December 30, 1996.

3. Section 52.1323 is amended by adding paragraph (k) to read as follows:

§ 52.1323 Approval Status.

* * * * *

(k) The state of Missouri revised 10 CSR 10-2.390 for Kansas City and 10 CSR 10-5.480 for St. Louis to update the transportation conformity requirements contained in 40 CFR Part 51, Subpart T, effective November 14, 1995.

[FR Doc. 97-23452 Filed 9-4-97; 8:45 am]

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