

**PART 145—TEMPORARY EXCISE TAX REGULATIONS UNDER THE HIGHWAY REVENUE ACT OF 1982 (PUB. L. 97-424)**

**Par. 65.** The authority citation for part 145 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**§ 145.4051-1 [Amended]**

**Par. 66.** In § 145.4051-1, paragraph (f), the first sentence is removed.

**Par. 67.** Section 145.4052-1 is amended as follows:

- 1. Paragraph (a)(2)(ii) is revised.
  - 2. Paragraph (a)(7) is removed.
- The revision reads as follows:

**§ 145.4052-1 Special rules and definitions.**

- (a) \* \* \*
- (2) \* \* \*

(ii) [Reserved]. For sales after June 30, 1998, see § 48.4052-1 of this chapter.

\* \* \* \* \*

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

**Par. 68.** The authority citation for part 602 continues to read as follows:

**Authority:** 26 U.S.C. 7805.

**Par. 69.** In § 602.101, paragraph (b) is amended by:

- 1. Removing the following entries from the table:

- 41.4481-1T
- 41.4482(b)-1T
- 48.4081-2(c)(3)
- 48.4081-3(d)(2)(iii)
- 48.4081-3(e)(2)(ii)
- 48.4081-3(f)(2)(ii)
- 48.4081-9
- 48.4082-7T
- 48.4082-8T
- 48.4091-3T
- 48.4101-2T
- 48.4101-3T
- 48.6420(c)-2
- 48.6420-7
- 48.6427-11T

- 2. Revising the entries for 48.4081-7 and 145.4052-1 and adding entries in numerical order to the table to read as follows:

**§ 602.101 OMB Control numbers.**

\* \* \* \* \*

- (b) \* \* \*

CFR part or section where identified and described	Current OMB control No.
* * * * *	*
48.4052-1 .....	1545-1418
* * * * *	*
48.4081-2 .....	1545-1270 1545-1418

CFR part or section where identified and described	Current OMB control No.
48.4081-3 .....	1545-1270 1545-1418
* * * * *	*
48.4081-7 .....	1545-1270 1545-1418
* * * * *	*
48.4082-6 .....	1545-1418
48.4082-7 .....	1545-1418
48.4091-3 .....	1545-1418
* * * * *	*
48.6427-10 .....	1545-1418
48.6427-11 .....	1545-1418
145.4052-1 .....	1545-0120 1545-0745 1545-1076
* * * * *	*

**Robert E. Wenzel,**  
*Deputy Commissioner of Internal Revenue.*  
 Approved: March 15, 2000.

**Jonathan Talisman,**  
*Acting Assistant Secretary of the Treasury.*  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[MO 099-1099; FRL-6568-8]

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

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve a revision to the Missouri State Implementation Plan (SIP). This action approves a revision to Missouri's fugitive dust rule. This action also responds to comments submitted during the public comment period for the proposed approval action published on May 28, 1999. This action makes the state rule Federally enforceable.

**DATES:** This rule is effective on May 1, 2000.

**ADDRESSES:** Copies of the state submittals are available at the following address for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551-7603.

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we, us, or our" is used, we mean EPA. This section provides additional information by addressing the following questions:

- What is a SIP?
- What is the Federal approval process for a SIP?
- What does Federal approval of a state regulation mean to me?
- What is being addressed in this action?
- Have the requirements for approval of a SIP revision been met?
- What action is EPA taking?

**I. Background**

*What Is a SIP?*

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

*What Is the Federal Approval Process for a SIP?*

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to EPA for inclusion into the SIP. EPA must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by EPA.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated

into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that EPA has approved a given state regulation with a specific effective date.

#### *What Does Federal Approval of a State Regulation Mean to Me?*

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, EPA is authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in the CAA.

#### *What Is Being Addressed in This Document?*

EPA is taking final action to approve a revision to the Missouri fugitive dust rule, 10 CSR 10-6.170, Restriction of Particulate Matter to the Ambient Air Beyond the Premises of Origin. EPA proposed approval of this revision in 64 FR 28947 (May 28, 1999). The revision exempts from the rule certain fugitive emissions which occur under circumstances which are deemed by Missouri to be "adverse weather conditions" as described in the rule.

EPA received comments from two commenters on the proposal. One commenter represents the Missouri Ag Industries Council, and the other represents the Missouri Limestone Producers Association. One of the comment letters was received after the close of the comment period. However, since the comments are nearly identical, EPA is responding to the issues raised by both commenters.

Both commenters stated that they supported the revision to Missouri's fugitive dust rule to provide for the exemption which is the subject of this rulemaking. However, the commenters stated that they do not believe that the Missouri fugitive dust rule should be included in the Missouri SIP, primarily based on the argument that the emission reductions attributable to the rule cannot be quantified, and that reductions due to the rule would be insignificant.

The objections to the underlying rule raised by the commenters involve issues which are not the subject of this rulemaking. EPA first approved the Missouri rule in 1972, and has approved various revisions to the rule since that

time. In fact, the commenters raised issues similar to those raised in connection with this rulemaking, in a recent EPA rulemaking on prior state revisions to the fugitive dust rule, and EPA provided responses to those comments in connection with that rulemaking. See 63 FR 3037 (January 21, 1998). The commenters petitioned the U.S. Court of Appeals for the Eighth Circuit for review of the 1998 rulemaking, although the commenters elected not to litigate these specific arguments, and the Court denied the petition. See *Missouri Limestone Producers Ass'n v. Browner*, 165 F. 3d 619 (8th Cir. 1999).

The scope of today's action is limited to approval of Missouri's revision to the fugitive dust rule to add the exemption discussed above in this notice. Issues relating to the underlying rule are not relevant to this action and have previously been adequately addressed by EPA in a prior rulemaking. This approval does not reopen any aspects of the underlying rule.

#### *Have the Requirements for Approval of a SIP Revision Been Met?*

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR Part 51, Appendix V. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations as explained in detail in the notice of proposed rule making published May 28, 1999.

#### *What Action Is EPA Taking?*

EPA is taking final action to approve a revision to the Missouri SIP. EPA is approving Missouri revised rule 10 CSR 10-6.170, submitted by the Director of the Missouri Department of Natural Resources on November 13, 1998, with a state effective date of August 30, 1998. This action makes the state rule Federally enforceable and ensures consistency between the state rules and the Federally approved SIP.

#### **Administrative Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves preexisting requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 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 States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

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 May 31, 2000. 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, Incorporation by reference, Intergovernmental relations, Particulate matter.

Dated: March 17, 2000.  
**William Rice,**  
*Acting Regional Administrator Region 7.*

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. In § 52.1320 the table in paragraph (c) is amended by revising the entry for 10–6.170, under Chapter 6, to read as follows:

**§ 52.1320 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED MISSOURI REGULATIONS**

Missouri citation	Title	State effective date	EPA approval date	Explanation
<b>Missouri Department of Natural Resources</b>				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.170 .....	Restriction of Particulate Matter to the Ambient Air Beyond the Premises of Origin.	August 30, 1998 .....	65 FR 17166 and March 31, 2000.	
*	*	*	*	*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 130**

[FRL–6569–7]

**Revision to the Water Quality Planning and Management Regulation Listing Requirements**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is revising the Water Quality Planning and Management regulation to remove the requirement in most cases that States, Territories and authorized Tribes submit to EPA for review by April 1, 2000, lists of water

quality limited waterbodies. EPA's current regulations interpret the provision in section 303(d) of the Clean Water Act for submission of lists to EPA "from time to time" to require States, Territories and authorized Tribes to submit lists on April 1 of every even-numbered year. EPA is not, however, changing the existing requirement to submit a list in 2000 if a court order or consent decree, or commitment in a settlement agreement dated prior to January 1, 2000, expressly requires EPA to take action related to a State's, Territory's, or authorized Tribe's year 2000 list. Also, EPA is not at this time changing the existing regulatory requirement that subsequent lists be submitted on April 1, 2002, and on April 1 of subsequent even numbered years.

**EFFECTIVE DATE:** March 31, 2000.

**ADDRESSES:** This rule's administrative record is available for review and

copying from 9:00 to 4:00 p.m., Monday through Friday, excluding legal holidays, at the Water Docket (W–99–25), East Tower Basement, Room EB–57, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The administrative record includes a Response to Comments document which includes a response to all timely comments that EPA received on the proposal for this rule. For access to materials, please call (202) 260–3027 to schedule an appointment.

**FOR FURTHER INFORMATION CONTACT:** James Pendergast, U.S. EPA, Office of Wetlands, Oceans and Watersheds (4503F), 1200 Pennsylvania Ave., NW., Washington, DC 20640, (202) 260–9549.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Clean Water Act Section 303.

**I. Potentially Regulated Entities**