

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 July 17, 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 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: May 8, 2000.

**Dennis Grams,**

*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 10–5.380, under Chapter 5, 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>				
* * * * *				
<b>Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area</b>				
* * * * *				
10–5.380 .....	Motor vehicle emissions inspection.	12/30/99 .....	[insert FR cite] May 18, 2000.	
* * * * *				

3. In § 52.1320 the table in paragraph (e) is amended by adding an entry at the end of the table in the Nonregulatory SIP Provisions for the inspection/

maintenance program, to read as follows:

(e) \* \* \*

\* \* \* \* \*

**EPA-APPROVED MISSOURI NONREGULATIONS SIP PROVISIONS**

Name of nonregulatory SIP Provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* * * * *				
Implementation plan for the Missouri inspection/maintenance program .....	St. Louis .....	11/12/99 .....	[insert FR cite] May 18, 2000.	
* * * * *				

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[Region 7 Tracking No. MO 102–1102; FRL–6701–5]

**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 nitrogen oxides (NO<sub>x</sub>) reasonably available control technology (RACT) rule which is applicable to the St. Louis, Missouri, ozone nonattainment area. This rule reduces NO<sub>x</sub> emissions in the St. Louis area by requiring major sources to install or comply with RACT as required by the Clean Air Act (CAA).

**DATES:** This rule is effective on June 19, 2000.

**ADDRESSES:** Copies of the state submittal 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:** Kim Johnson at (913) 551–7975.

**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?

### What is a SIP?

Section 110 of the 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 us for inclusion into the SIP. We 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 us.

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 we have

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, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

### What is being addressed in this document?

NO<sub>x</sub> emissions combine with volatile organic compound emissions on hot, sunny days to form ground level ozone, commonly known as smog. The purpose of the following rule is to establish RACT requirements in Missouri for major sources of NO<sub>x</sub> emissions. These requirements will result in reductions of NO<sub>x</sub> emissions which will help achieve reductions in ozone levels in the St. Louis ozone nonattainment area. The St. Louis ozone nonattainment area includes Franklin, Jefferson, St. Charles, and St. Louis counties, and St. Louis City in Missouri and Madison, St. Clair and Monroe counties in Illinois.

We are taking final action to approve as an amendment to the Missouri SIP, rule 10 CSR 10-5.510, "Control of Emissions of Nitrogen Oxides," submitted to us on November 12, 1999. This NO<sub>x</sub> RACT rule is applicable to all sources with the potential to emit 100 tons per year or more of nitrogen oxides in the Missouri portion of the St. Louis nonattainment area. The rule establishes emission limits, work practices, monitoring, testing, and recordkeeping and reporting requirements for boilers, stationary internal combustion (IC) turbines, stationary IC engines, incinerators, regenerative container melting glass furnaces, and portland cement kilns.

The rule also requires any other stationary source, which has the potential to emit NO<sub>x</sub> in amounts greater than the major stationary source threshold, to undertake a "case-by-case" RACT study to evaluate controls to minimize NO<sub>x</sub> emissions. This "case-by-case" analysis establishes a procedure for identifying all available control technologies and selecting the technology that provides the most effective, cost reasonable reduction technique.

For those units subject to a NO<sub>x</sub> emission limitation, the final compliance deadline is May 1, 2002. An extension of the compliance deadline

may be granted by the director, if the affected installation submits a plan no later than January 1, 2001. This plan, which is subject to approval by the Missouri Department of Natural Resources, must include a detailed analysis of the air quality benefit that will occur if the compliance date is extended, a detailed explanation of why the compliance date should be extended, and a proposed schedule for meeting compliance.

As required by 40 CFR 51.261(a)(2), no extension of the compliance date can be approved if it extends final compliance beyond the attainment date in the approved SIP.

We have reviewed the NO<sub>x</sub> controls and averaging provisions in this rule and have determined that they are consistent with relevant EPA guidance and with NO<sub>x</sub> controls approved as RACT for other states.

No comments were received in response to the public comment period regarding this rule action.

For more background information, the reader is referred to the proposal for this rulemaking published on February 17, 2000, at 65 FR 8092.

### 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, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations and part D of Title I of the CAA.

### What action is EPA taking?

We are taking final action to approve as an amendment to the Missouri SIP rule 10 CSR 10-5.510, "Control of Emissions of Nitrogen Oxides," as meeting the requirement for NO<sub>x</sub> RACT which is applicable to the Missouri portions of the St. Louis ozone nonattainment area.

### 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 (Public Law 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, our 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), we have 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, we have 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. We 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 July 17, 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 4, 2000

**Dennis Grams,**

*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. § 52.1320 is amended by:

a. In the table to paragraph (c), Chapter 5, adding in numerical order entry "10-5.510."

The addition reads 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>				
* * * * *				
<b>Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area</b>				
* * * * *				
10-5.510 .....	Control of Emissions of Nitrogen Oxides.	February 29, 2000 ..	[insert FR cite and May 18, 2000].	
* * * * *				

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MO 103-1103; FRL-6701-3]

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

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving Missouri's 15% Rate-of-Progress Plan (ROPP), and Missouri rule 10-CSR 10-5.300, "Control of Emissions From Solvent Metal Cleaning." This Plan is intended to fulfill the requirements of section 182(b)(1)(A) of the Clean Air Act (CAA or Act).

**DATES:** This rule is effective on June 19, 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:** Royan Teter at (913) 551-7609.

#### 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 State Implementation Plan (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?

#### What Is a SIP?

Section 110 of the 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 us for inclusion into the SIP. We 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 us.

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 we have 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, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

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

On November 12, 1999, Missouri submitted a revised ROPP. The plan established the 1996 target level of volatile organic compound (VOC) emissions for the Missouri portion of the St. Louis ozone nonattainment area.

Missouri achieves the required reductions through a combination of 19 state and 9 Federal measures.

On February 17, 2000, (65 FR 8083) EPA proposed to approve Missouri's ROPP and VOC rule 10 CSR 10-10.300. The public provided comments on the proposed action. We are responding to those comments below.

#### 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, as explained above and in more detail in the technical support document which was part of the proposed action, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

#### Response to Comments

The Missouri Coalition for the Environment and the Sierra Club submitted jointly written comments regarding our February 17, 2000 proposal (65 FR 8083) to approve Missouri's 15% ROPP, and Missouri rule 10-CSR 10-5.300, "Control of Emissions From Solvent Metal Cleaning." Their paraphrased comments and EPA's responses follow.

#### 1. Comments Relating to the Statutory Requirements for Review of the ROPP

*Comment:* The commenters stated that the ROPP should be disapproved because it fails to show reasonable further progress "as a matter of law." The commenters argue that the St. Louis nonattainment area is currently classified as "serious" under section 181 of the Act, and is therefore subject to the reasonable further progress (RFP) requirements of section 182(c) rather than 182(b).

In addition, they argue section 182(b) is no longer relevant for purposes of determining RFP because it governs RFP toward the goal of attainment by 1996 whereas it is now 2000. They contend the plan should be disapproved based on the premise that section 182(c) is the applicable CAA requirement and their conclusion that Missouri's plan does not purport to satisfy the RFP requirements of section 182(c).

*Response:* The St. Louis area is classified under section 181(a) of the Act as a moderate ozone nonattainment area, and has not been reclassified under section 181(b) as suggested by the commenters. In any event, the RFP requirements of section 182(b)(1) are applicable to all areas classified as