

EPA-APPROVED IOWA REGULATIONS—Continued

| Iowa citation                              | Title   | State effective date | EPA approval date  | Explanation |
|--|---|----------------------|--|-------------|
| *  | *   | *                    | *  | *           |
| <b>Chapter 25—Measurement of Emissions</b> |   |                      |  |             |
| 567–25.1 .....                             | Testing and Sampling of New and Existing Equipment. | 12/15/04             | May 2, 2005 [insert FR page number where the document begins]. |             |
| *  | *   | *                    | *  | *           |

\* \* \* \* \*

**PART 70—[AMENDED]**

■ 1. The authority citation for Part 70 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

■ 2. Appendix A to Part 70 is amended by adding under “Iowa” paragraph (h) to read as follows:

**Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs**

\* \* \* \* \*

Iowa

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(h) The Iowa Department of Natural Resources submitted for program approval an administrative correction to rule “567–22.3” on December 15, 2004. The state effective date is December 15, 2004. This revision to the Iowa program is approved effective July 1, 2005.

\* \* \* \* \*

[FR Doc. 05–8708 Filed 4–29–05; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 70**

[R07–OAR–2005–MO–0004; FRL–7906–7]

**Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Missouri State Implementation Plan (SIP) and Operating Permits Program. EPA is approving a revision to the Missouri rule entitled “Submission of Emission Data, Emission Fees, and Process Information.” This revision will

ensure consistency between the state and the Federally-approved rules.

**DATES:** This direct final rule will be effective July 1, 2005, without further notice, unless EPA receives adverse comment by June 1, 2005. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07–OAR–2005–MO–0004, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *Agency Web site:* <http://docket.epa.gov/rmepub/>. RME, EPA’s electronic public docket and comment system, is EPA’s preferred method for receiving comments. Once in the system, select “quick search;” then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. *E-mail:* [daniels.leland@epa.gov](mailto:daniels.leland@epa.gov).

4. *Mail:* Leland Daniels, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. *Hand Delivery or Courier.* Deliver your comments to Leland Daniels at the above-listed address.

*Instructions:* Direct your comments to RME ID No. R07–OAR–2005–MO–0004. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://www.regulations.gov) Web site are “anonymous access” systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office’s official hours of business are Monday through Friday, 8 to 4:30 p.m., excluding Federal

holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Leland Daniels at (913) 551-7651, or by e-mail at [daniels.leland@epa.gov](mailto:daniels.leland@epa.gov).

**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 the Part 70 operating permits program?

What is the Federal approval process for an operating permits program?

What is being addressed in this document? Have the requirements for approval of a SIP revision and Part 70 revision been met?

What action is EPA taking?

**What Is a SIP?**

Section 110 of the Clean Air Act (CAA or Act) 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 us. 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 us 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 the Part 70 Operating Permits Program?**

The CAA Amendments of 1990 require all states to develop operating permits programs that meet certain Federal criteria. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the part 70 operating permits program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federally-enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include “major” sources of air pollution and certain other sources specified in the CAA or in our implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that emit 100 tons per year or

more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen dioxide, or PM<sub>10</sub>; those that emit 10 tons per year of any single hazardous air pollutant (HAP) (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of HAPs.

Revision to the state and local agencies operating permits program are also subject to public notice, comment, and our approval.

**What Is the Federal Approval Process for an Operating Permits Program?**

In order for state regulations to be incorporated into the Federally-enforceable Title V operating permits program, states must formally adopt regulations 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 approved operating permits program. 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 502 of the CAA are incorporated into the Federally-approved operating permits program. Records of such actions are maintained in the CFR at Title 40, part 70, appendix A, entitled “Approval Status of State and Local Operating Permits Programs.”

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

Missouri, in its letter of December 8, 2004, requested that EPA approve a revision to the SIP and Operating Permits Program as revisions to rule 10 CSR 10-6.110, “Submission of Emission Data, Emission Fees, and Process Information” had been made. This rule deals with submittal of emissions information, emission fees, and public availability of emissions data. It provides procedures for collection, recording, and submittal of emissions data and process information on state-supplied Emission Inventory Questionnaire and Emission Statement forms so that the state can calculate emissions for the purpose of state air resource planning.

Missouri updates this rule periodically. This action covers the amendment made in 2004 which includes the following. Paragraph

(3)(D)1. was amended to establish emission fees for calendar year 2004 and subsection (3)(G), request for additional fees and emission fee refunds, was removed from the rule.

By State statute, the emission fees are set annually to fund the reasonable cost of administering the program. Missouri continually evaluates the Operating Permits Program financial situation. An emissions fee of \$33.00 per ton of regulated air pollutant starting with calendar year 2004 was established. This is a reduction of one dollar per ton of regulated air pollutant from 2003. The fee is sufficient to fund the cost of administering the Part 70 Operating Permits Program. The emission fees are found in section (3)(D) of the amended rule.

Subsection (3)(G) of the rule provided a mechanism for sources to pay balances due for underpayment and receive refunds for overpayment in a prior calendar year. Subsection (3)(G) was removed as there was no statutory authority for those requirements. EPA believes that the state has adequately demonstrated that removal of this provision will not adversely impact its ability to collect adequate fees, as required by 40 CFR 70.9.

#### **Have the Requirements for Approval of the SIP Revision and Part 70 Revision Been met?**

The submittal satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, the state submittal has met the public notice requirements for SIP submission in accordance with 40 CFR 51.102 and met the substantive SIP requirements of the CAA including section 110 and 40 CFR 51.211, relating to submission of emissions data.

Finally, the submittal met the substantive requirements of Title V of the 1990 CAA Amendments and 40 CFR part 70, including the requirement in 40 CFR 70.9 relating to emission fees.

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

We are approving a revision to the Missouri SIP and incorporating the revised rule 10 CSR 10-6.110, "Submission of Emissions Data, Emission Fees, and Process Information."

We are also approving section (3)(D) of this rule as a program revision to the state's Part 70 Operating Permits Program.

We are processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial, and make regulatory revisions required by state statute. Therefore, we do not

anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

#### **Statutory and Executive Order Reviews**

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. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). 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 pre-existing 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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). This action 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, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP and Title V permit 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 state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a 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. 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. 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 U.S. Senate, the U.S. 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. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 1, 2005. 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping

requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: April 22, 2005. James B. Gulliford, 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(c) the table is amended under Chapter 6 by revising the entry for “10–6.110” to read as follows:

§ 52.1320 Identification of plan.

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

EPA-APPROVED MISSOURI REGULATIONS

Table with 5 columns: Missouri citation, Title, State effective date, EPA approval date, Explanation. Includes entry for Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri.

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PART 70—[AMENDED]

1. The authority citation for Part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, et seq.

Appendix A—[Amended]

2. Appendix A to Part 70 is amended by adding paragraph (p) under Missouri to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

\* \* \* \* \*

Missouri

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(p) The Missouri Department of Natural Resources submitted revisions to Missouri rule 10 CSR 10–6.110, “Submission of Emission Data, Emission Fees, and Process Information” on December 8, 2004, approval of section (3)(D) effective July 1, 2005.

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[FR Doc. 05–8703 Filed 4–29–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7905–5]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the Lower Ecorse Creek Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region V is publishing a direct final notice of deletion of the Lower Ecorse Creek, Superfund Site (Site), located in Wyandotte, Michigan, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Michigan, through the Michigan Department of Environmental Quality, because EPA has determined that all appropriate response actions under CERCLA have been completed

and, therefore, further remedial action pursuant to CERCLA is not necessary at this time.

DATES: This direct final notice of deletion will be effective July 1, 2005, unless EPA receives adverse comments by June 1, 2005. If adverse comments are received, EPA will publish a timely withdrawal of the direct final notice of deletion in the Federal Register informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Timothy Prendiville, Remedial Project Manager (RPM) at (312) 886–5122, Prendiville.Timothy@EPA.Gov or Gladys Beard, State NPL Deletion Process Manager at (312) 886–7253, Beard.Gladys@EPA.Gov, U.S. EPA Region V, 77 W. Jackson, Chicago, IL 60604, (mail code: SR–6J) or at 1–800–621–8431.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: EPA Region V Library, 77 W. Jackson, Chicago, IL 60604, (312) 353–5821, Monday through Friday 8 a.m. to 4 p.m.; Bacon Memorial Public Library, 45 Vinewood, Wyandotte, MI 48186, (734) 246–8357, Monday through Thursday 10 a.m. to 9 p.m., Friday and 9 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Timothy Prendiville, Remedial Project