

adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation considering that it relates to the promulgation of operating regulations or procedures for drawbridges. Under figure 2–1, paragraph (32)(e), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From March 8, 2006 through September 7, 2006, § 117.795 is amended by suspending paragraph (b) and adding a temporary paragraph (d), to read as follows:

#### 117.795 Jamaica Bay and Connecting Waterways.

\* \* \* \* \*

(d) The New York City Highway Bridge (Belt Parkway), mile 0.8, across Mill Basin, need only open one moveable span for the passage of vessel traffic from March 8, 2006 through September 7, 2006. The draw need not be opened for the passage of vessel traffic from 12 p.m. to 9 p.m. on Sundays from May 15 through September 30, and on Memorial Day, Independence Day, and Labor Day.

However, on these days the draw shall open on signal from the time two hours before to one hour after the predicted high tide(s).

For the purpose of this section, predicted high tide(s) occur 15 minutes later than that predicted for Sandy Hook, as documented in the tidal current data, which is updated, generated and published by the National Oceanic and Atmospheric Administration/National Ocean Service.

Dated: March 2, 2006.

**David P. Pekoske,**

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

[FR Doc. 06–2393 Filed 3–10–06; 8:45 am]

**BILLING CODE 4910–15–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 62

[EPA–R07–OAR–2005–MO–0006; FRL–8044–5]

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

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

**ACTION:** Final rule.

**SUMMARY:** EPA is announcing the partial approval and partial disapproval of revisions to the Restriction of Emission of Sulfur Compounds rule in the Missouri State Implementation Plan (SIP). This Missouri rule establishes general requirements for emissions of sulfur compounds from various source categories and establishes specific emissions requirements for certain named sources.

EPA is approving most of the revisions to the rule because the changes involve clarifications, updates, and other improvements to the current rule. This action does not include a portion of the rule that regulates ambient concentrations of sulfur compounds, because this provision is not in the current SIP, and EPA does not directly enforce Missouri’s Air Quality Standards.

EPA is disapproving Missouri’s request to include in the SIP a revision to two source-specific references because the state has not demonstrated that the revisions are protective of the short-term SO<sub>2</sub> National Ambient Air Quality Standard (NAAQS).

**DATES:** This rule is effective on April 12, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket ID

No. EPA–R07–OAR–2005–MO–0006. All documents in the docket are listed on the <http://www.regulations.gov> Web site. 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 through <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, KS. The Regional Office’s official hours of business are Monday through Friday, 8 a.m. 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:

Amy Algoe-Eakin at (913) 551–7942 or by e-mail at [algoe-eakin.amy@epa.gov](mailto:algoe-eakin.amy@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 or Disapproval of a State Regulation Mean to Me?

What Is Being Addressed in This Document?

Have the Requirements for Approval of a SIP 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 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 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 or Disapproval 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. If a state regulation is disapproved, it is not incorporated into the Federally-approved SIP, and is not enforceable by EPA or by citizens under section 304. In the case of a revision to a Federally-approved state regulation, disapproval of the revision means that the underlying state regulation prior to the state's revision remains as the Federally enforceable requirement.

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

We are taking final action to partially approve and partially disapprove Missouri Department of Natural

Resources' (MDNR) request to include, as a revision to Missouri's SIP, amendments to rule 10 CSR 10-6.260, Restriction of Emission of Sulfur Compounds. We are also approving certain changes to this rule as an amendment to the 111(d) plan which will replace the current rule for sulfuric acid mist production. This rule was adopted by the Missouri Air Conservation Commission on February 3, 2004, and became effective under state law on May 30, 2004. This rule was submitted to EPA on June 14, 2004, and included comments on the rule during the state's adoption process, the state's response to comments and other information necessary to meet EPA's completeness criteria.

The revisions to Missouri rule, 10 CSR 10-6.260, Restriction of Emission of Sulfur Compounds, update the rule to correct inaccurate source information, provide an exemption for natural gas fueled combustion, and clarify the exemption for source categories subject to a new source performance standard to assure that such sources are subject to sulfur limits. Missouri also revised provisions relating to sulfuric acid mist production, previously approved by EPA under section 111(d). These provisions were renumbered but not otherwise changed. By renumbering the rule, Missouri will have given the 111(d) plan a new effective date that will be reflected in the description of the section 111(d) plan in 40 CFR part 62. EPA is approving revisions to Section (3)(A)1,2,3 and 4 into the 111(d) plan.

However, we are not acting on renumbered Section (3)(B), titled Restriction of Concentration of Sulfur Compounds in Ambient Air, as EPA does not directly enforce Missouri's air quality standards, and this section is not found in the approved SIP.

We are also partially disapproving revisions to Missouri rule, 10 CSR 10-6.260, Restriction of Emission of Sulfur Compounds. Revisions to Section (3), Table 1, regarding the emission rate for the Kansas City Power & Light's Hawthorn and Montrose Station facilities are not consistent with the requirements of the CAA. Section 110(a)(2)(A) of the CAA requires, in part, that the plan include emission limitations to meet the requirements of the Act, including the requirement in Section 110(a)(1) that the plan must be adequate to attain and maintain ambient air quality standards. In addition, 40 CFR 51.112 requires that the plan demonstrate that rules contained in the SIP are adequate to attain the ambient air quality standards. We believe that these requirements have not been met

with respect to the Hawthorn and Montrose Station limits. We note that the Hawthorn unit is subject to a Federally-enforceable state permit which limits sulfur emissions to .12 pounds per million BTU heat input on a thirty-day rolling average basis. Although the facility must comply with this more stringent limit (and all other units listed in the rule must comply with more stringent limits established in permits), the SIP must reflect requirements that ensure attainment and maintenance of the NAAQS. The state rule, with respect to the Hawthorn and Montrose Station facilities, does not reflect such requirements.

We believe that the revisions, contained in Section (3), Table 1, regarding sulfur dioxide emission rates for these plants are not protective of the short-term sulfur dioxide NAAQS. Although the emission rates for both facilities have been lowered, the averaging time for the rates has been dramatically increased, from a three-hour average to an annual average. Missouri has not provided a demonstration, as required by the CAA and EPA regulations, that the standards, particularly, the three-hour and the twenty-four hour standards, can be protected by an annual emission limit.

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

With respect to the portions of the submittal which EPA is approving, 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 that is part of this document and in the October 3, 2005, proposed rule, the approved portions of the revision meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

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

We are taking final action to partially approve and partially disapprove portions of the Restriction of Emission of Sulfur Compounds rule into the Missouri State Implementation Plan (SIP). The approved and disapproved portions are described above. We are incorporating rule changes to subparagraph (3)(A)1,2,3, and 4, into Missouri's 111(d) plan. We are not acting on a portion of this rule that regulates ambient concentrations of sulfur compounds, because this provision is not in the current SIP, and

EPA does not directly enforce Missouri's Air Quality Standards.

**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.*). The partial disapproval will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, the Administrator certifies that this disapproval action does not have a significant 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 approves and disapproves 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 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. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 12, 2006. 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 62*

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides, Sulfuric acid plants, Waste treatment and disposal.

Dated: March 6, 2006.

**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 "10-6.260" to read as follows:

**§ 52.1320 Identification of plan.**

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

**EPA-APPROVED MISSOURI REGULATIONS**

Missouri citation	Title	State effective date	EPA approval date	Explanation
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**Missouri Department of Natural Resources**

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EPA-APPROVED MISSOURI REGULATIONS—Continued

Missouri citation	Title	State effective date	EPA approval date	Explanation
10-6.260	Restriction of Emission of Sulfur Compounds.	05/30/04	03/13/06 [ <i>insert FR page number where the document begins</i> ].	Section (3)(B) is not SIP approved. The revision to the averaging time and emission rate per unit for Kansas City Power & Light, Hawthorn Plant and Montrose Station in Table 1 of (3)(C)2.B. is not approved.

**PART 62—[AMENDED]**

■ 1. The authority citation for part 62 continues to read as follows:

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

**Subpart AA—Missouri**

■ 2. Section 62.6350 is amended by adding paragraph (b)(4) to read as follows:

**§ 62.6350 Identification of plan.**

(b) \* \* \*

(4) A revision to Missouri’s 111(d) plan for sulfuric acid mist production was state effective on May 30, 2004. This revision approves the renumbering of the rule. The effective date of the amended plan is April 12, 2006.

\* \* \* \* \*

[FR Doc. 06-2378 Filed 3-10-06; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 051116304-6035-02; I.D. 110805A]

RIN 0648-AT92

**Fisheries of the Exclusive Economic Zone Off Alaska; Total Allowable Catch Amount for “Other Species” in the Groundfish Fisheries of the Gulf of Alaska**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule that implements Amendment 69 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

Amendment 69 amends the manner in which the total allowable catch (TAC) for the “other species” complex is annually determined in the Gulf of Alaska (GOA). The amendment allows the TAC amount for the “other species” complex to be set less than or equal to 5 percent of the sum of groundfish targets species in the GOA. This final rule also raises the maximum retainable amount (MRA) of “other species” in the directed arrowtooth flounder fishery from 0 percent to 20 percent. This action is necessary to reduce the potential for overfishing those species in the “other species” complex in the GOA and to reduce the amount of “other species” required to be discarded in the arrowtooth flounder fishery. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, and other applicable laws.

**DATES:** Effective April 12, 2006.

**ADDRESSES:** Copies of Amendment 69, the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA), and EA/RIR/Final Regulatory Flexibility Analysis (FRFA) prepared for this action may be obtained from NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Records Officer or from the Alaska Region website at [www.fakr.noaa.gov](http://www.fakr.noaa.gov). The FMP is available from [www.fakr.noaa.gov/npfmc/fmp/goa/goa.htm](http://www.fakr.noaa.gov/npfmc/fmp/goa/goa.htm).

**FOR FURTHER INFORMATION CONTACT:** Tom Pearson, 907-481-1780 or [tom.pearson@noaa.gov](mailto:tom.pearson@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The groundfish fisheries in the exclusive economic zone of the GOA are managed under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.* Regulations implementing the FMP appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The Council submitted Amendment 69 for review by the Secretary of Commerce. A notice of availability of the amendment was published in the **Federal Register** on November 16, 2005 (70 FR 69505), with comments invited through January 17, 2006. The proposed rule for Amendment 69 was published in the **Federal Register** on November 29, 2005 (70 FR 71450), with comments invited through January 13, 2006. No comments were received on the notice of availability or the proposed rule. The final rule is unchanged from the proposed rule. Amendment 69 was approved by the Secretary of Commerce on February 13, 2006.

**Background**

In June 2005, the Council recommended Amendment 69 as an interim measure to prevent overfishing of species in the “other species” complex until a more comprehensive management plan could be developed. Designation and management of the “other species” complex have evolved through a series of amendments to the GOA FMP. The proposed rule (70 FR 71451, November 29, 2005) provides an overview of how the “other species” complex management has changed by amendments to the FMP. The proposed rule also provides a description of the effects of changing the setting of TAC for “other species” and of changing the “other species” MRA for the arrowtooth flounder fishery.

**Final Regulatory Amendment**

To manage the incidental harvest of the “other species” complex, this action revises Table 10 of 50 CFR part 679 to raise the MRA for the “other species” complex from 0 percent to 20 percent in the arrowtooth flounder fishery in the GOA. This revision is necessary to properly manage the retention of “other species” in the arrowtooth flounder fishery and to potentially reduce the amount of discards of otherwise marketable fish in the “other species” complex.