

**PART 52—[AMENDED]**

**Subpart AA—Missouri**

**§ 52.1320 Identification of plan.**

■ 1. The authority citation for part 52 continues to read as follows:

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

■ 2. In § 52.1320 the table in paragraph (c) is amended under Chapter 6 by revising the entries for 10–6.350 and 10–6.360 to read as follows:

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

**EPA-APPROVED MISSOURI REGULATIONS**

Missouri citation	Title	State effective date	EPA approval date	Explanation
<b>Missouri Department of Natural Resources</b>				
<b>Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri</b>				
10–6.350	Emissions Limitations and Emissions Trading of Oxides of Nitrogen.	5/30/07	4/2/08	[insert FR page number where the document begins].
10–6.360	Control of NO <sub>x</sub> Emissions From Electric Generating Units and Non-Electric Generating Boilers.	5/30/07	4/2/08	[insert FR page number where the document begins].

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R07–OAR–2008–0103; FRL–8549–8]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision to exempt initial fueling of motor vehicles at automobile assembly plants in the St. Louis metropolitan area from the Missouri Performance Evaluation Test Procedures (MO/PETP) approval test requirements. MO/PETP requirements were initially implemented to maintain the integrity of local air quality by regulating gasoline fueling emissions. The Missouri Department of Natural Resources (MDNR) provided an air quality analysis and it was determined that removal of these test requirements for initial fueling at automobile assembly plants will not adversely affect air quality in the St. Louis area. In addition, certain portions of the rule were renumbered and reformatted. This revision will ensure consistency

between the state and the federally-approved rules.

**DATES:** This direct final rule will be effective June 2, 2008, without further notice, unless EPA receives adverse comment by May 2, 2008. 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 Docket ID No. EPA–R07–OAR–2008–0103, by one of the following methods:

1. *www.regulations.gov*. Follow the on-line instructions for submitting comments.
2. *E-mail:* [algoe-eakin.amy@epa.gov](mailto:algoe-eakin.amy@epa.gov).
3. *Mail:* Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.
4. *Hand Delivery or Courier.* Deliver your comments to Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

*Instructions:* Direct your comments to Docket ID No. EPA–R07–OAR–2008–0103. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, 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 through *www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an “anonymous access” system, 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 *www.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 docket are listed in the *www.regulations.gov* index. 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 [www.regulations.gov](http://www.regulations.gov) 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 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 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) 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 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 October 1, 2007, EPA received a request from the MDNR to approve a revision to the SIP to exempt initial fueling of motor vehicles at automobile assembly plants in the St. Louis metropolitan area from the Missouri Performance Evaluation Test Procedures (MO/PETP) approval test requirements. The MO/PETP requirements were initially implemented to maintain the integrity of local air quality by regulating gasoline fueling emissions (volatile organic compounds—VOCs) in St. Louis.

The MO/PETP is a bank of individual test procedures that apply to manufacturers of vapor recovery components. The MDNR uses these test procedures to evaluate the overall efficiency of various types of gasoline vapor recovery systems (including Stage I and Stage II systems). Stage I vapor recovery is the capture and control of

gasoline vapors that would normally be released into the atmosphere during the storage of gasoline at a terminal or bulk plant, or during the loading of a gasoline delivery vessel and the subsequent delivery and unloading of a gasoline delivery into another storage tank, usually at a gasoline dispensing facility (GDF). Stage II is the capture and control of gasoline vapors that would normally be released in the atmosphere during the refueling of motor vehicles at the GDF. Stage II involves the installation of a black boot on the gasoline nozzle at gas stations in the St. Louis area which captures the vapors from the automobile tank and returns these vapors to the underground storage tank at the GDF.

In implementing the tests, the automobile industry determined that the testing requirements were costly and burdensome with little or no emissions benefits. Representatives of the automobile manufacturing industry in the St. Louis area met with MDNR representatives with regard to the MO/PETP test requirements and provided MDNR with information that indicated that emissions were already controlled pursuant to the CAA and pertinent Missouri rules. In addition, the air quality benefit of MO/PETP testing for initial fueling at the automobile assembly plants was nominal. These issues, coupled with the extensive costs, initiated the change to 10 CSR 10-5.220.

The St. Louis metropolitan area is currently designated nonattainment for the 8-hour ozone standard. The EPA Region 7 requested that MDNR demonstrate that revisions to this rule would not negatively impact air quality. The CAA Section 110(l), provides in part, that SIP revisions cannot interfere with attainment of a National Ambient Air Quality Standard or with reasonable further progress towards attainment. CAA Section 193 contains anti-backsliding provisions as well, but it does not apply here because the testing requirements at issue do not predate the 1990 amendments to the CAA. To address these concerns, MDNR submitted an air emission impact worksheet that concluded the emissions not captured at the automobile assembly plants' initial fueling operations were negligible compared to the total VOCs in the St. Louis nonattainment areas. Based on this analysis, EPA concluded that this change would not relax SIP requirements so as to adversely impact air emissions.

It should be noted that the only portion of the MO/PETP rule affected by the revision is the portion that applies at automobile manufacturing plants. The remaining requirements for Stage I

and Stage II vapor recovery remain in place. MDNR rules include the requirement to obtain construction permits before replacement or addition of equipment that may affect vapor tightness of the vapor recovery system. Operating permits for these facilities are required in accordance with 10 CSR 10-6.065 and Title V of the CAA. In addition, certain portions of the rule were renumbered and reformatted. The renumbering and reformatting of the rule makes this rule consistent with the general format of Missouri air rules and does not change any requirements.

#### Have the requirements for approval of a SIP 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.

#### What action is EPA taking?

We are approving the request to amend the Missouri SIP (10 CSR 10-5.220) to exempt the MO/PETP approval test requirements for initial fueling of motor vehicles at automobile assembly plants in St. Louis. This rule was also renumbered and reformatted. The appropriate air quality analysis was included with the SIP submittal and it has been determined that these changes will not relax the SIP or adversely impact air emissions.

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 a 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 approves a state rule implementing a Federal standard.

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 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 state 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 *June 2, 2008*. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 20, 2008.

**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(c) the table is amended under Chapter 5 by revising the entry for "10-5.220" 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>				
10-5.220	Control of Petroleum Liquid Storage, Loading and Transfer.	9/30/07	4/02/08	[insert FR page number where the document begins].

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 [FR Doc. E8-6666 Filed 4-1-08; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2007-0970; FRL-8547-6]

**Revision to the California State Implementation Plan, Bay Area Air Quality Management District**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the Bay Area Air Quality Management District (BAAQMD) portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on December 20, 2007, and concern nitrogen oxides (NO<sub>x</sub>) and carbon monoxide (CO) emissions from boilers, steam generators and process heaters at petroleum refineries. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on May 2, 2008.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2007-0970 for this action. The index to the docket is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an

appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Andrew Steckel, EPA Region IX, (415) 947-4115, [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to EPA.

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**I. Proposed Action**

On December 20, 2007 (72 FR 72322), EPA proposed to approve BAAQMD Rule 9-10, Nitrogen Oxides and Carbon Monoxide from Boilers, Steam Generators, and Process Heaters in Petroleum Refineries, into the California SIP. This rule was adopted by the BAAQMD on July 17, 2002, and submitted by the California Air Resources Board on August 12, 2002.

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

**II. Background**

On March 29, 2001 (66 FR 17078), EPA published a limited approval and limited disapproval of a previous version of BAAQMD Rule 9-10, because the rule improved the SIP overall, but some rule provisions failed to satisfy the requirements of section 110 of the CAA. On August 12, 2002, BAAQMD submitted a revised version of Rule 9-10 for approval into the SIP, to address the deficiencies identified by EPA in 2001.

On October 7, 2002 (67 FR 62389), EPA published a direct final rule to approve this revised version of

BAAQMD Rule 9-10 into the California SIP. In association with the direct final rule, EPA published a proposed rule to allow an opportunity for the public to comment on the approval of Rule 9-10 into the California SIP (67 FR 62427). Based on the proposed approval of Rule 9-10, EPA made an interim final determination to stay the imposition of sanctions that resulted from the March 29, 2001, limited disapproval action. The interim final rule to stay the imposition of sanctions was published concurrently on October 7, 2002 (67 FR 62388).

Adverse comments were received in response to the October 7, 2002, proposed rule. As a result, EPA published a withdrawal of the direct final rule on November 25, 2002 (67 FR 70555). The proposed approval remained in effect, and therefore the interim final determination regarding sanctions was not affected by the withdrawal because the determination was based on the proposed approval of Rule 9-10. The comments received were addressed in a second proposed approval, published on December 20, 2007 (72 FR 72322), which is being finalized by this action. For more information on BAAQMD Rule 9-10 and our evaluation, please see the proposed action.

**III. Public Comments and EPA Responses**

EPA’s proposed action provided a 30-day public comment period. During this period, we did not receive any comments.

**IV. EPA Action**

No comments were submitted that change our assessment that the submitted rule complies with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving this rule into the California SIP.