

technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or 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 Department of Homeland Security Management Directive 0023.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a safety zone for the conduct of a fireworks display and is necessary in the interests of safety for mariners, spectators, and persons involved in the display.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under

#### ADDRESSES.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T11–153 to read as follows:

#### § 165.T11–153 Safety Zone; Tyco Electronics Fireworks Display; San Diego Bay, San Diego, CA.

(a) *Location.* The following area is a safety zone: the navigable waters extending out 250 feet from all points of the USS Midway located at

approximately 32°42.52' N, 117°10.35' W.

(b) *Enforcement Period.* This section will be enforced from 8:30 p.m. to 9 p.m. on April 21, 2009. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: designated representative, means any commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, or local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated on-scene representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Sector San Diego Command Center. The Command Center may be contacted on VHF–FM Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: March 6, 2009.

**T.H. Farris,**

*Captain, U.S. Coast Guard, Captain of the Port San Diego.*

[FR Doc. E9–8492 Filed 4–13–09; 8:45 am]

**BILLING CODE 4910–15–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 70

[EPA–R07–OAR–2008–0793; FRL–8791–6]

#### 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 taking direct final action to approve a revision to the State Implementation Plan (SIP) and Operating Permits Program to amend the definitions provisions of the rules by

adding definitions for stage I/II vapor recovery systems and outstate area, updating the lists of volatile organic compounds and hazardous air pollutants for consistency with the Environmental Protection Agency (EPA) lists, removing unnecessary definitions, and making typographical corrections and clarifications. Approval of this revision will ensure consistency between the state and the Federally-approved rules.

**DATES:** This direct final rule will be effective June 15, 2009, without further notice, unless EPA receives adverse comment by May 14, 2009. 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–2008–0793, by one of the following methods:

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

2. E-mail: [bhesania.amy@epa.gov](mailto:bhesania.amy@epa.gov).

3. *Mail or Hand Delivery:* Amy Bhesania, 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–2008–0793. 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://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 <http://www.regulations.gov> or e-mail information that you consider to be CBI or otherwise protected. The <http://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 <http://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 <http://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 <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 Bhesania at (913) 551-7147, or by e-mail at [bhesania.amy@epa.gov](mailto:bhesania.amy@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document "we," "us," or "our" refer to 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 a Part 70 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 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 source 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.

Revisions to the state 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 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?**

EPA is approving revisions to the Missouri SIP and operating permits program which revise the definitions provisions of the rule by adding definitions for stage I/II vapor recovery systems and “outstate area” (areas outside metropolitan areas such as Kansas City and St. Louis), updating the lists of volatile organic compounds and hazardous air pollutants for consistency with the EPA lists, removing unnecessary definitions, and making typographical corrections and clarifications.

The state removed numerous definitions that are no longer used anywhere throughout the state regulations. Because they are unnecessary, the deletion does not substantively impact the regulations. Definitions revised are as follows: adverse impact on visibility (adding a reference to a table in the rule identifying class I areas in Missouri) and delivery vessel (deleting the term “drum” from the definition). The phrase “potential to emit” is revised to clarify that enforceable permit conditions which may be considered in determining potential emissions include conditions relating to application of pollution control equipment and other conditions (such as limits on operating rates and hours of operation). Any of these limits, under the state rule, must be contained in Federally-enforceable permit conditions in order to be considered in the calculation of potential emissions. (For example, limits based on use of pollution control equipment must be contained in a Federally-enforceable permit condition in order to be considered in the calculation under the state rule.) The revisions to these definitions are for clarification and do not adversely affect the stringency of the SIP or the operating permits program.

The terms and definitions added to the SIP are as follows: Outstate area—Any area throughout the state except the City of St. Louis and St. Charles, St. Louis, Jefferson, Franklin, Clay, Cass, Buchanan, Ray, Jackson, Platte and Green Counties; Stage I vapor recovery system—A system used to capture the gasoline vapors that would otherwise be emitted when gasoline is transferred from a loading installation to a delivery vessel or from a delivery vessel to a storage tank; and Stage II vapor recovery system—A system used to capture the gasoline vapors that would otherwise be emitted when gasoline is dispensed into

a vehicle fuel tank by routing vapors back to the fuel storage tank. These provisions merely provide clarification of terms used in the regulations and do not substantively change the requirements.

The definitions were renumbered as appropriate due to the deletions and additions.

Revisions were made to the table of compounds not considered volatile organic compounds because of their known lack of participation in the atmospheric reactions to produce ozone. Revisions include deletions, corrections and additions which are consistent with EPA regulations and do not adversely affect the stringency of the SIP or the operating permits program. Deletions and corrections were also made to General Provisions, Table 3, Hazardous Air Pollutants.

#### **Have the requirements for approval of a SIP revision and a Part 70 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. The substantive requirements of Title V of the 1990 CAA Amendments and 40 CFR part 70 have been met as well.

#### **What action is EPA taking?**

We are approving the request to amend the Missouri SIP and operating permits program. This revision will amend the definitions provisions of the rules by adding definitions for stage I/II vapor recovery systems and outstate area, updating the lists of volatile organic compounds and hazardous air pollutants for consistency with the EPA lists, as well as removing unused definitions and making typographical corrections and clarifications.

Approval of this revision will ensure consistency between the state and the Federally-approved rules. EPA has determined that these changes will not relax the SIP or adversely impact air emissions and will not substantively change the 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 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 15, 2009. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the final rulemaking. 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, Nitrogen

dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

*40 CFR Part 70*

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

Dated: April 3, 2009.

**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 6 by revising the entry for "10-6.020" 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 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the State of Missouri</b>				
* * * * *				
10-6.020 .....	Definitions and Common Reference Tables.	9/30/08	4/14/09 [insert FR page number where the document begins].	
* * * * *				

\* \* \* \* \*  
**PART 70—[AMENDED]**

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

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

**Appendix A—[Amended]**

■ 4. Appendix A to part 70 is amended in the entry for Missouri by adding paragraph (w) to read as follows:

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

\* \* \* \* \*

Missouri

\* \* \* \* \*

(w) The Missouri Department of Natural Resources submitted revisions to Missouri rule 10 CSR 10-6.020, "Definitions and

Common Reference Tables," on September 5, 2008, approval effective May 14, 2009.

\* \* \* \* \*

[FR Doc. E9-8487 Filed 4-13-09; 8:45 am]

**BILLING CODE 6560-50-P**