

US EPA ARCHIVE DOCUMENT

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 20, 2001

Jane Diamond,

Acting Regional Administrator, Region IX.

Part 52, 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 F—California

2. Section 52.220 is amended by adding paragraphs (c)(239)(i)(E)(7) and (c)(278)(i)(C)(2) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *
(239) * * *
(i) * * *
(E) * * *

(7) Manual of Procedures, volume I, section 5, adopted on September 16, 1993.

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(278) * * *
(i) * * *
(C) * * *

(2) Rules 57 and 68, adopted on June 14, 1977.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 70**

[MO 120-1120a; FRL-7024-3]

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 announcing it is approving a revision to the Missouri State Implementation Plan (SIP) and part 70 Operating Permits Program. EPA is approving a revision to Missouri rule "Submission of Emission Data, Emission Fees, and Process

Information." This revision will ensure consistency between the state and Federally approved rules, and ensure Federal enforceability of the state's air program rule revision pursuant to both section 110 of the Clean Air Act and part 70 Operating Permits Program.

EFFECTIVE DATE: This direct final rule will be effective October 5, 2001 unless EPA receives adverse comments by September 5, 2001. If adverse comments are 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: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above listed Region 7 location. 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: Wayne Kaiser at (913) 551-7603.

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 Being Addressed in this Document?

Have the Requirements for Approval of a SIP Revision and Part 70 Program 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 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 us 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 Promulgations 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 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 40 CFR 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 PM₁₀; 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 and local agencies operating permits program are also subject to public notice, comment, and our approval.

What Is Being Addressed in This Document?

The state of Missouri has requested that EPA approve as a revision to the Missouri SIP and the 40 CFR part 70 Operating Permits Program recently adopted revisions to rule 10 CSR 10-6.110, "Submission of Emission Data, Emission Fees, and Process Information."

This rule applies to sources that are required to obtain a construction or Title V permit and to sources seeking an exemption from major source permitting requirements. The rule requires the submittal of an Emission Inventory Questionnaire (EIQ) and payment of emission fees based on information submitted in the EIQ.

Revisions made in this annual update include no longer requiring the payment of a service fee by Phase I acid rain sources. However, these sources will now be required to pay Title V emission fees. The state deleted the requirement for payment of fees by charcoal production sources. Both of these provisions were included in the state statute which established the Title V operating permit program. Other minor revisions, corrections, and clarifications were also made. The annual emission fee was not revised, so it remains at twenty-five dollars and seventy cents

(\$25.70) per ton. This fee, along with program cash reserves, is sufficient to fund the cost of administering the 40 CFR part 70 program.

Further discussion and background information is contained in the technical support document prepared for this action, which is available from the EPA contact listed above.

Have the Requirements for Approval of a SIP Revision and Part 70 Program Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations. Finally, the submittal meets the substantive requirements of Title V of the 1990 CAA Amendments and 40 CFR part 70.

What Action Is EPA Taking?

EPA is 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.

Final action: EPA is approving as an amendment to the Missouri SIP revisions to rule 10 CSR 10-6.110, "Submission of Emission Data, Emission Fees, and Process Information" pursuant to section 110. EPA is also approving this rule as a program revision to the state's part 70 Operating Permits Program pursuant to part 70.

I. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. 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 preexisting requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small

Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 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 October 5, 2001. 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 Parts 52 and 70

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 17, 2001.

William A. Spratlin,

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 "10–6.110" to read as follows:

§ 52.1320 Identification of plan.

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(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * *				
10–6.110 ...	Submission of Emission Data, and Process Information.	Emission Fees,	11/30/00	8/6/01 FR 40903
				Section (5), Emission Fees, has not been approved as part of the SIP.
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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.*

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

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

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Missouri

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(j) The Missouri Department of Natural Resources submitted Missouri rule 10 CSR 10–6.110, "Submission of Emission Data, Emission Fees, and Process Information" on November 27, 2000, approval effective October 5, 2001.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–7025–2]

RIN: 2060–AH47

National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments and denial of petitions.

SUMMARY: The EPA promulgated the Group IV Polymers and Resins national emission standards for hazardous air pollutants (NESHAP) on September 12, 1996. The EPA was petitioned to reconsider the equipment leak detection and repair (LDAR) standards contained in the promulgated rule as they pertain to polyethylene terephthalate (PET) facilities. On June 8, 1999, we issued a proposed denial of the petitions for reconsideration and issued a direct final

rule amendment to extend the compliance dates specified for equipment leaks for PET affected sources, as a result of the petitions to reconsider the equipment leak standards for PET facilities.

After revising costs and hazardous air pollutant (HAP) emissions reductions using data provided by petitioners and other commenters, the EPA is retaining the equipment leak provisions of the promulgated rule with one exception; we are modifying the definition of a leak for certain ethylene glycol pumps. In addition, we are extending the compliance dates for the PET affected sources to comply with the equipment leak provisions to August 6, 2002, in order to provide PET facilities time to develop an LDAR program.

EFFECTIVE DATE: August 6, 2001.

ADDRESSES: Docket No. A–92–45 contains information considered by EPA in the development of the standards for the Group IV Polymers and Resins. The docket is available for public inspection and copying between 8:00 a.m. and 5:00