

US EPA ARCHIVE DOCUMENT

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[FR Doc. E8-21312 Filed 9-12-08; 8:45 am]

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

[EPA-R07-OAR-2008-0614; FRL-8713-8]

**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 Missouri State Implementation Plan (SIP) and Operating Permits Program. EPA is approving a revision to the Missouri rule entitled "Submission of Emission Data, Emission Fees, and Process Information." These revisions will establish emission fees for the Missouri facilities as required annually, align state rule reporting requirements with the Federal Consolidated Emission Reporting Rule (CERR), and decrease the required Emissions Inventory Questionnaire (EIQ) reporting frequency for affected installations.

DATES: This direct final rule will be effective November 14, 2008, without further notice, unless EPA receives adverse comment by October 15, 2008. If EPA receives adverse comment, we 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-2008-0614, by one of the following methods:

1. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
2. *E-mail:* algoe-eakin.amy@epa.gov.
3. *Mail or Hand Delivery:* Amy Algae-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-2008-0614. 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, 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 to 4:30, 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 Algae-Eakin at (913) 551-7942, or by e-mail at algoe-eakin.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 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 operating permits program are also subject to public notice, comment, and our approval.

What is the Federal approval process for an Operating Permits Program?

In order for state regulations to be incorporated into the Federally-enforceable Title V operating permits program, states must formally adopt regulations consistent with state and

Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the approved operating permits program. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 502 of the CAA are incorporated into the Federally-approved operating permits program. Records of such actions are maintained in the CFR at Title 40, part 70, appendix A, entitled "Approval Status of State and Local Operating Permits Programs."

What is being addressed in this document?

Missouri, in its letter of December 21, 2007, requested that EPA approve a revision to the SIP and Title V operating permits program to include revisions to rule 10 CSR 10–6.110, "Submission of Emission Data, Emission Fees, and Process Information." This rule deals with submittal of emissions information, emission fees, and public availability of emissions data. It provides procedures for collection, recording, and submittal of emissions data and process information on state-supplied Emission Inventory Questionnaire (EIQ) forms and Emission Statement forms so that the state can calculate emissions for the purpose of state air resource planning. In addition, these forms provide a basis for the assessment of emissions fees for the Title V operating permit program. The revisions were made to align state reporting requirements with the Federal Consolidated Emissions Reporting Rule (CERR), to update references in the rule, and to decrease the required EIQ reporting frequency for affected installations. Revisions to 10 CSR 10–6.110 are described in the following paragraphs.

Subsection (1)(A), and paragraphs (3)(A)2, (3)(A)3, and (3)(A)4 were revised to renumber the reference to the Reporting Frequency table from (3)(A)5 to (3)(A)6. This is an administrative amendment which does not change any substantive provisions in the rule.

Subsection (1)(B) was revised to align state reporting requirements with the Federal CERR. These changes are consistent with and, in some cases, more stringent than the CERR. This rule

was revised to clarify that annual reporting of volatile organic compounds, nitrous oxides and carbon monoxide is required in nonattainment areas. A provision was added that indicates any changes to the annual emissions statement form will be presented to the regulated community for a forty-five day public comment period.

Section (2) identifies definitions and added subsections (2)(A), (2)(B), (2)(C), and (2)(D) to include Peak Ozone Season, CERR, Reporting Year, and a reference for other terms as specified in 10 CSR 10–6.020.

Paragraph (3)(A)3 was revised to change the due date of EIQ forms from ninety (90) days after the end of the reporting period, to June 1 of each year, and to delete a redundant sentence.

Paragraph (3)(A)4 was revised to align state reporting requirements with the Federal CERR by clarifying reporting thresholds for ozone nonattainment areas and to add the word "pollutant." These changes are consistent with and, in some cases, more stringent than the CERR.

Paragraphs (3)(A)6 and (3)(A)5 were renumbered. The Reporting Frequency table under the newly renumbered paragraph (3)(A)6 was modified to add separate reporting frequency requirements (every three years rather than annually) for installations required to obtain a Basic State Operating Permit under 10 CSR 10–6.065. Under Missouri's rules, "basic" sources are small sources to which EPA's reporting rules do not apply. Paragraphs within the reporting frequency table were renumbered. For sources smaller than basic sources, the reporting frequency was changed from five to six years. These latter sources are also not covered by EPA's reporting rules.

Finally, paragraph 5 of the table was revised to clarify that sources of ozone precursors and carbon monoxide, in ozone nonattainment areas, must file annual reports if they emit 10 or more tons of any of these (non-major) pollutants during a peak ozone season.

By state statute, the emission fees are set annually to fund the reasonable cost of administering the program. Missouri continually evaluates the operating permits program financial situation. Revisions to subsection (3)(D) address changes to the Missouri operating permits program.

Paragraph (3)(D)1 was revised to increase the emissions fee from thirty four dollars and fifty cents (\$34.50) per ton of regulated air pollutant to forty dollars and no cents (\$40.00), to change the calendar year from 2006 to 2007,

and to update reporting criteria requirements.

Paragraph (3)(D)2.D was revised to update and make corrections for the air pollutants for which the fees are not assessed. The revision provided a typographical revision by substituting carbon monoxide for carbon oxide, and also added ammonia and "PM_{2.5} particulate matter" emissions.

Paragraph (3)(D)2.F replaced the phrase "each year" with "annually" and added a reference to paragraph (3)(A)6 for required reporting schedules.

The rule revisions do not change the stringency of the SIP or Title V program and the revisions otherwise meet the EPA requirements for both programs.

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. In addition, as explained above and in more detail in the technical support document which is part of this docket, these revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations. These revisions are minor clarifications, updates, and corrections which do not affect the stringency of existing requirements. These revisions are also consistent with applicable EPA requirements in Title V of the CAA and 40 CFR part 70.

What action is EPA taking?

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

We are also approving revisions to subsection 3(D)1, and paragraphs 3(D)2.D and 3(D)2.F of this rule as program revisions to the state's Part 70 Operating Permits Program.

We are processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial. 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 and Title V 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 14, 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

40 CFR Part 52

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

40 CFR Part 70

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating

permits, Reporting and recordkeeping requirements.

Dated: September 4, 2008.

John B. Askew,

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 the table in paragraph (c) is amended by revising the entry for 10–6.110 to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(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, Emission Fees, and Process Information.	12/30/07	09/15/08 [<i>insert FR page number where the document begins</i>].	Section (3)(D), Emissions Fees, has not been approved as part of the SIP.
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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 by adding paragraph (v) under Missouri to read as follows:

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

* * * * *

Missouri

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(v) The Missouri Department of Natural Resources submitted revisions to Missouri rule 10 CSR 10–6.110, “Submission of Emission Data, Emission Fees, and Process Information” on December 21, 2007; approval of section (3)(D) effective November 14, 2008.

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[FR Doc. E8–21181 Filed 9–12–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[EPA–HQ–OW–2007–93; FRL–8716–2]

Withdrawal of Federal Antidegradation Policy for All Waters of the United States Within the Commonwealth of Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to withdraw the federal antidegradation policy for all waters of the United States within the Commonwealth of Pennsylvania. We are withdrawing the federal antidegradation policy to allow Pennsylvania to implement its own antidegradation policy. Pennsylvania has adequately demonstrated that its antidegradation policy protects all waters of the United States at a level consistent with the federal requirements under the Clean Water Act. Therefore, the federal antidegradation policy is redundant.

DATES: This rule is effective December 15, 2008 without further notice unless EPA receives adverse comment by October 15, 2008. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal**

Register informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket Id. No. EPA–HQ–OW–2007–0093, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail*: ow-docket@epa.gov.
- *Mail*: Water Docket, USEPA, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery*: EPA Docket Center, EPA West Room 3334, 1301 Constitution Ave., NW., Washington, DC 20004. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2007–93. 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 information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web