

US EPA ARCHIVE DOCUMENT

Maintenance Plan Update” to read as follows:

\$ 52.920 Identification of plan.

(e) * * *

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EPA APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Edmonson Ozone 10 year Maintenance Plan Update.	Edmonson County	August 24, 2003	December 17, 2004 [Insert Federal Register citation]	

[FR Doc. 04–27656 Filed 12–16–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R06–OAR–2004–TX–0002; FRL–7849–5]

Approval and Promulgation of Implementation Plans; Texas; Memorandum of Agreement Between Texas Council on Environmental Quality and the North Central Texas Council of Governments Providing Emissions Offsets to Dallas Fort Worth International Airport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On October 29, 2004 (69 FR 63066), EPA published a direct final rule approving incorporation of a Memorandum of Agreement between the Texas Commission on Environmental Quality and the North Central Texas Council of Governments into the Texas SIP. The direct final action was published without prior proposal because EPA anticipated no adverse comment. EPA stated in the direct final rule that if EPA received adverse comment by November 29, 2004, EPA would publish a timely withdrawal in the **Federal Register**. EPA subsequently received a timely adverse comment on the direct final rule. Therefore, EPA is withdrawing the direct final approval. EPA will address the comment in a subsequent final action based on the parallel proposal also published on October 29, 2004 (69 FR 63112). As stated in the parallel proposal, EPA will not institute a second comment period on this action.

DATES: The direct final rule published on October 29, 2004 (69 FR 63066), is withdrawn as of December 17, 2004.

FOR FURTHER INFORMATION CONTACT: Peggy Wade, telephone (214) 665–7247; e-mail address wade.peggy@epa.gov.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 9, 2004.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

■ Accordingly, the revision to 40 CFR 52.2270 published in the **Federal Register** on October 29, 2004 (69 FR 63066), which was to become effective on December 28, 2004, is withdrawn.

[FR Doc. 04–27655 Filed 12–16–04; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[R07–OAR–2004–MO–0004; FRL–7850–3]

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 approving revisions to the Missouri State Implementation Plan (SIP) and 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 the Federally-approved rules and ensure Federal enforceability of the state’s air program rule revision.

DATES: This direct final rule will be effective February 15, 2005, without further notice, unless EPA receives adverse comment by January 18, 2005. 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 Regional Material in EDocket (RME) ID Number R07–OAR–2004–MO–0004, by one of the following methods:

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

2. Agency Web site: <http://docket.epa.gov/rmepub/>. RME, EPA’s electronic public docket and comment system, is EPA’s preferred method for receiving comments. Once in the system, select “quick search”; then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: daniels.leland@epa.gov.

4. Mail: Leland Daniels, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. Hand Delivery or Courier: Deliver your comments to Leland Daniels at the above-listed address.

Instructions: Direct your comments to RME ID No. R07–OAR–2004–MO–0004. 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://docket.epa.gov/rmepub/>, 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 RME, [regulations.gov](http://www.regulations.gov), or e-mail.

The EPA RME Web site and the Federal [regulations.gov](http://www.regulations.gov) Web site are “anonymous access” systems, 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 RME or [regulations.gov](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 electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. 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 RME 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: Leland Daniels at (913) 551-7651, or by e-mail at daniels.leland@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 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 Part 70 Revision Been Met?

What Action Is EPA Taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA or Act) requires states to develop air pollution regulations and control strategies to ensure that state air quality

meets the national ambient air quality standards established by 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 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.

Revision to the state and local agencies 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 5, 2003, requested that EPA approve a revision to the SIP and Operating Permits Program as revisions to rule 10 CSR 10–6.110, "Submission of Emission Data, Emission Fees, and Process Information" had been made. 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 and Emission Statement forms so that the state can calculate emissions for the purpose of state air resource planning.

Missouri updates this rule periodically. This action covers the amendments made in 2003 which include the following. The applicability of the rule was broadened to require permit fees from any installation that notifies and accepts a permit-by-rule under 10 CSR 10–6.062. Although the permit-by-rule provision is referenced in 10–6.110, EPA is not acting on 10–6.062 in this action. A new section references definitions in 10 CSR 10–6.020. The definitions in that section previously approved by EPA are contained in the current SIP. Original sections were renumbered. The emissions fee for calendar year 2003 was increased to \$35.00 per ton of regulated air pollutant. A new section for record and record keeping requirements was added. A new section (5) was added as a placeholder for any test methods which might be promulgated in the future.

The use of a standard format for this rule resulted in the renumbering of the sections. The addition of a new section (2) for definitions required the renumbering of original section (2) to new section (3) for general provisions and transferred original sections (2) through (8) to section (3).

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. An emissions fee of \$35.00 per ton of regulated air pollutant starting with calendar year 2003 was established. For calendar year 2003, the fee is reduced by one dollar per ton of regulated air pollutant to reflect credit for fees collected for 2002 calendar year emissions for the Missouri Emission Inventory System project. The resulting fee of \$34.00 is an increase over the \$31.00 established in 2002 which was the first increase since the state began collecting fees in 1994. The fee is sufficient to fund the cost of administering the Part 70 Operating Permits Program. The emission fees are found in section (3)(D) of the amended rule.

Have the Requirements for Approval of the SIP Revision and Part 70 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 the substantive SIP requirements of the CAA including section 110 and 40 CFR 51.211, relating to submission of emissions data.

Finally, the submittal met the substantive requirements of Title V of the 1990 CAA Amendments and 40 CFR part 70, including the requirement in 40 CFR 70.9 relating to emission fees.

What Action Is EPA Taking?

We are approving a revision 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 section (3)(D) of this rule (formerly identified as section (5)) as a program revision to the state's Part 70 Operating Permits Program.

Although the permit-by-rule provision is referenced in 10–6.110, EPA is not acting on 10–6.062 in this action.

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 is not economically significant.

In reviewing SIP and Title V permit 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 state submission, to use VCS in place of a 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 February 15, 2005. 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: December 6, 2004.

William W. 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 "10–6.110" 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.	12/30/03	12/17/04 [Insert FR page number where the document begins].	Section (3)(D), Emissions 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.*
A—[Amended]

■ 2. Appendix A to part 70 is amended by adding paragraph (o) under Missouri 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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(o) 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 16, 2003, approval of section (3)(D) effective February 15, 2005.

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[FR Doc. 04–27661 Filed 12–16–04; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7859]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.