

Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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 rule is not a “major” rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

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 December 26, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Ozone, Volatile Organic Compound, Transportation conformity.

Dated: October 11, 2000.

Norman Niedergang,

Acting Regional Administrator, Region 5.

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 YY—Wisconsin

2. Section 52.2585 is amended by adding paragraph (n) to read as follows:

§ 52.2585 Control strategy: Ozone.

* * * * *

(n) Approval—On September 8, 2000, Wisconsin submitted a revision to the ozone maintenance plan for the Walworth County area. The revision consists of allocating a portion of the Walworth County area’s Volatile Organic Compounds (VOC) safety margin to the transportation conformity Motor Vehicle Emission Budget (MVEB). The MVEB for transportation conformity purposes for the Walworth County area are now: 5.39 tons per day of VOC emissions and 7.20 tons per day of oxides of nitrogen emissions for the year 2007. This approval only changes the VOC transportation conformity MVEB for Walworth County.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 110–1110; FRL–6889–8]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving an amendment to the Missouri State Implementation Plan (SIP) pertaining to a new statewide visible emissions rule, and the rescission of four, old area specific visible emission rules. The new statewide rule consolidates the requirements of the four old area specific rules. The effect of this approval is to ensure Federal enforceability of the state air program rules and to maintain consistency between the state-adopted rules and the approved SIP.

DATES: This rule is effective on December 26, 2000 without further notice, unless EPA receives adverse written comment by November 27, 2000. If EPA receives such comments, it will publish a timely withdrawal of the

direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments must be submitted to Wayne Kaiser, 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 Being Addressed in This Action?

Have the Requirements for Approval of a SIP Revision Been Met?

What Action Is EPA Taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process

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

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

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

On June 7, 2000, we received a request from the Missouri Department of Natural Resources (MDNR) to amend the SIP. The state requested that we approve new statewide rule 10 CSR 10-6.220, Restriction of Emission of Visible Air Contaminants, and rescind four old area-specific rules which it replaced. The four rules to be rescinded, and their area of applicability, are:

- 10 CSR 10-2.060, Restriction of Emission of Visible Air Contaminants—Kansas City Metropolitan Area
- 10 CSR 10-3.080, Restriction of Emission of Visible Air Contaminants—Outstate Missouri Area
- 10 CSR 10-4.060, Restriction of Emission of Visible Air Contaminants—Springfield-Greene County Area
- 10 CSR 10-5.090, Restriction of Emission of Visible Air Contaminants—St. Louis Metropolitan Area

The applicability and intent of the new rule do not differ from the old

rules. Certain revisions were made to provide clarification and to enhance enforceability, however. For example, a definitions section was added with definitions relevant to this rule, obsolete exemptions were removed, area specific exemptions were expanded to statewide exemptions where appropriate, "Source operating time" definition was clarified, and non-COMS test methods were specified.

The benefits of consolidating the four rules into one include: Allows fewer rules for Title V compliance; clarifies statewide visible emission requirements and exemptions; requires enforcement and maintenance of one rule, rather than four; provides consistent enforcement throughout the state; avoids confusion interpreting specific rule requirements and exemptions in different areas of the state; and adds a clarification that sources regulated under the new source performance standards (NSPS) are subject to the more stringent NSPS requirements.

A technical support document (TSD) containing additional information and background material for this action has been prepared and is available from the EPA contact listed above.

Have the Requirements for Approval of a SIP 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 TSD which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are processing this action as a final action because the revisions make routine changes to the existing SIP which are noncontroversial. Therefore, we do not anticipate any adverse comments.

Conclusion

We are approving the state's request to amend the SIP by rescinding the four SIP approved area specific rules and approving in their place an equivalent statewide visible emissions rule.

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. 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 (Public Law 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 December 26, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the

purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 6, 2000.

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 by:

- a. Removing the entry under Chapter 2 for 10-2.060;
- b. Removing the entry under Chapter 3 for 10-3.080;
- c. Removing the entry under Chapter 4 for 10-4.060;
- d. Removing the entry under Chapter 5 for 10-5.090; and
- e. Adding in numerical order an entry under Chapter 6 for 10-6.220.

The addition reads 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				
*	*	*	*	*
10-6.220	Restriction of Emission of Visible Air Contaminants.	11/30/99	[insert date of publication and FR cite].	
*	*	*	*	*

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[FR Doc. 00-27144 Filed 10-25-00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[TX-119-1-7448a; FRL-6886-1]

Approval and Promulgation of Implementation Plans; Texas; Water Heaters, Small Boilers, and Process Heaters; Agreed Orders; Major Stationary Sources of Nitrogen Oxides in the Beaumont/Port Arthur Ozone Nonattainment Area**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: The EPA is taking direct final action on revisions to the Texas State Implementation Plan (SIP). This rulemaking covers four separate actions. First, we are approving revisions to the Nitrogen Oxides (NO_x) SIP to add a rule for water heaters, small boilers, and process heaters sold and installed in Texas (the Texas Water Heater Rule). This rule will contribute to attainment of the 1-hour ozone standard in the Beaumont/Port Arthur (B/PA), Houston/Galveston (H/GA), and Dallas/Fort Worth (D/FW) nonattainment areas and will contribute to continued maintenance of the standard in the rest of the State of Texas. Second, we are approving revisions to the Texas NO_x SIP for certain major stationary point source categories in the B/PA ozone nonattainment area. These new limits for certain stationary point sources will contribute to attainment of the 1-hour ozone standard in the B/PA area. Third, we are approving revisions to the existing approved Texas NO_x Reasonably Available Control Technology (RACT) SIP because the changes are administrative in nature. Fourth, we are approving two Agreed Orders between the State of Texas and two companies in Northeast Texas. These Orders will contribute to attainment of the 1-hour ozone standard in the B/PA, H/GA, and D/FW nonattainment areas and will contribute to continued maintenance of the standard in the eastern half of the State of Texas.

The EPA is approving these SIP revisions to regulate emissions of NO_x as meeting the requirements of the Federal Clean Air Act (the Act).

DATES: This rule is effective on December 26, 2000, without further notice, unless EPA receives adverse

comment by November 27, 2000. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action including the Technical Support Document (TSD) are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Dallas, Texas 75202-2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar, P.E., Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-6691.

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SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," and "our" means EPA. Please note that if we receive adverse comment(s) on an amendment, paragraph, or section of this rule and if that provision is

independent of the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

1. What Action Are We Taking?

The EPA previously approved the Texas NO_x rules at 30 TAC, Chapter 117, "Control of Air Pollution From Nitrogen Compounds" as the Texas NO_x RACT SIP for the H/GA, D/FW, and B/PA 1-hour ozone nonattainment areas on September 1, 2000 (65 FR 53172). On April 30, 2000, the Governor of Texas submitted rule revisions to the 30 TAC, Chapter 117, "Control of Air Pollution From Nitrogen Compounds," as a revision to the Texas NO_x SIP for certain major stationary point source categories operating in the B/PA ozone nonattainment area. Texas submitted this SIP revision to us as a part of the additional local NO_x reductions needed for the B/PA area to attain the 1-hour ozone standard. These new rules set revised emission specifications in the B/PA area for electric utility boilers, industrial, commercial or institutional boilers, and certain process heaters. On April 30, 2000, the Governor of Texas also submitted rule revisions to the 30 TAC, Chapter 117, "Control of Air Pollution From Nitrogen Compounds," as a revision to the Texas NO_x SIP adding controls for another source category—water heaters, small boilers, and process heaters sold and installed in Texas. Texas submitted this SIP revision to us as a part of the NO_x reductions needed for the H/GA, D/FW, and B/PA 1-hour ozone nonattainment areas to demonstrate attainment, to strengthen the existing Texas SIP, and to show continued maintenance of the standard in the rest of the State of Texas. On April 30, 2000, the Governor of Texas also submitted rule revisions to the 30 TAC, Chapter 117, "Control of Air Pollution From Nitrogen Compounds," as a revision to the Texas NO_x RACT SIP that were purely administrative changes without any substantive effects.

On April 30, 2000, the Governor of Texas submitted to us two Agreed Orders entered into between the State and two companies in the eastern half of Texas. Texas submitted this SIP revision to us as a part of the additional emission reductions needed for the H/GA, D/FW, and B/PA 1-hour ozone nonattainment areas to demonstrate attainment, to strengthen the existing Texas SIP, and to show continued maintenance of the standard in the eastern half of the State of Texas.

In this rulemaking we are taking four separate actions. First, under part D of the Act, we are specifically approving a