SJVUAPCD Rule 4452, Pumps and Compressor Seals at Petroleum Refineries and Chemical Plants, and SCAQMD Rule 1121, Control of Nitrogen Oxides from Residential Type, Natural Gas-fired Water Heaters. In the Rules and Regulations section of this **Federal Register**, we are approving the local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone 3 interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: October 22, 2001.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 01–28344 Filed 11–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[0139–1139; FRL–7104–4]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision concerning the Missouri Control of Gasoline Reid Vapor Pressure (RVP) rule submitted by the Missouri Department or Natural Resources (MDNR). This action would approve amendments to State controls on the summertime Reid Vapor Pressure (RVP) of gasoline distributed in Clay, Jackson, and Platte Counties. This amendment changed the RVP limit from 7.2 pounds per square inch (psi) to 7.0 psi, and from 8.2 psi to 8.0 psi for gasoline containing at least 9.0 percent by volume but not more than 10.0 percent by volume ethanol. This is a part of the state's plan to maintain its clean air quality.

DATES: Comments must be received on or before December 17, 2001.

ADDRESSES: Written comments should be mailed to Leland Daniels, 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. 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.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What are the criteria for SIP approval?
What does Federal approval of a state regulation mean to me?
What is being addressed in this document?
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 limiting emissions 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 Are the Criteria for SIP Approval?

In order to be approved into a SIP, the submittal must meet the requirements of section 110. In determining the approvability of a SIP revision, EPA must evaluate the proposed revision for consistency with the requirements of the CAA and our regulations, as found in section 110 and part D of Title I of the CAA amendments and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

The CAA has additional requirements for the approval of SIPs containing certain state fuel controls. Section 211(c)(4)(A) of the CAA prohibits states from prescribing or attempting to enforce regulations respecting fuel characteristics or components if EPA has adopted Federal controls under section 211(c)(1) applicable to such fuel characteristics or components, unless the state control is identical to the Federal control. Section 211(c)(4) includes two exceptions to this prohibition. First, under section 211(c)(4)(B), California is not subject to the preemption in section 211(c)(4)(A). Second, a State may prescribe or enforce such otherwise preempted fuel controls if the measure is approved into a SIP.

Under section 211(c)(4)(C), we may approve such state fuel controls into a SIP, if the state demonstrates that the measure is necessary to achieve the NAAQS. Section 211(c)(4)(C) specifies that a state fuel requirement is ''necessary'' if no other measures would bring about timely attainment, or if other measures exist but are unreasonable or impracticable. As discussed in more detail below, the State rule proposed for SIP approval today merely amends the State fuel

control that has already been approved into the SIP and addresses emissions reductions shortfalls that EPA has already determined are required under the Act. Therefore, a new demonstration of necessity under section 211(c)(4)(C) is not required.

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?

Background

Ozone monitoring data from 1987 through 1991 demonstrated that the Kansas City nonattainment area had attained the NAAQS for ozone. In accordance with the CAA the MDNR revised the SIP for ozone for the Missouri portion of the Kansas City area to recognize the area's attainment status. We published final approval of the Missouri SIP redesignating the area to attainment on June 23, 1992. The SIP and the redesignation became effective on July 23, 1992.

Section 175A of the CAA requires that states requesting redesignation of a nonattainment area to attainment status must also submit a revision to the state implementation plan that commits the state to provide for the maintenance of the standard for which the area is redesignated. The maintenance plan submitted by the State of Missouri and approved by EPA in 1992 included a commitment to ensure continued compliance with the ozone standard. The states and the region committed to implement the following additional air pollution control contingency measures in the event a future violation of the ozone standard occurred: Implement one or more transportation control measures to achieve at least a 0.5 per cent reduction in actual area-wide volatile organic compound (VOC) emissions; require VOC emission offsets for new and modified major sources; and implement either a Stage II vapor recovery or enhanced vehicle inspection and maintenance program.

On July 11, 12, and 13, 1995, exceedances of the ozone standard were measured at the Liberty monitoring site. These exceedances, in combination with the exceedance measured on July 29, 1993, constituted a violation of the ozone standard for the three-year time period of 1993–1995. This violation triggered the need for the states to implement the contingency measures in the maintenance plan. By letter dated August 17, 1995, EPA agreed to a request from both Kansas and Missouri to substitute other equivalent control measures for those specified in the maintenance plan, provided the substitute measures would achieve substantially equivalent emission reductions and were submitted as SIP revisions.

In partial fulfillment of the requirement to implement contingency measures, Missouri promulgated an emergency rule 10 CSR 10–2.330 to limit the volatility of gasoline sold during the summer months (June 1 through September 15) in the Kansas City area to 7.2 psi. We published conditional approval of Missouri's RVP rule on October 9, 1997 (62 FR 52659). The State fulfilled the conditional requirements by submitting the final rule on November 13, 1997, and we published full approval of the final rule on April 24, 1998 (63 FR 20318). This action addressed a portion of the reductions needed to fulfill the requirement to implement contingency measures. The estimated area-wide reductions needed to maintain the standard was 8.5 tons per day (tpd) of VOC reductions. The 7.2 psi RVP rule would produce an estimated 4.1 tpd of VOC reductions.

An exceedance of the NAAQS for ozone again occurred on July 23, 1997, at the Liberty monitoring site and another on August 28, 1997, at the Kansas City International Airport monitoring site. These exceedances in conjunction with the three exceedances in 1995 resulted in a violation of the ozone standard for the three-year period of 1995–1997, again emphasizing the need to implement additional contingency measures. From 1998 through 2000 seven exceedances have been recorded at the six air quality monitors located in the Kansas City area, although no subsequent violations of the ozone standard have occurred.

In an effort to satisfy the required emissions reductions and address the continuing exceedances, the Governors of Missouri and Kansas opted into the Federal program for reformulated gasoline (RFG) on July 20, 1999. However, on January 4, 2000, the United States Court of Appeals for the District of Columbia Circuit vacated EPA's rule allowing the use of RFG in former nonattainment areas (American Petroleum Inst. v. U.S. Environmental Protection Agency, 198 F. 3d 275 (D.C. Cir.2000)). Thus RFG was no longer a viable option for the area.

In January 2000 the Kansas City Chamber of Commerce and then subsequently the Mid-America Regional Council (MARC) convened meetings with interested stakeholders to determine the most appropriate option for reducing the emissions of ozone forming pollutants. The stakeholders concluded that a lower volatility gasoline was the most appropriate option. At its September 2000 meeting, MARC adopted a resolution supporting the use of a lower volatility gasoline. Then on May 25, 2001, we received a SIP revision from Missouri that lowered the volatility of gasoline during the summertime. This notice and the accompanying technical support document provide an analysis of the SIP revision for a lower volatility gasoline.

Fuel Volatility

RVP is a measure of a fuel's volatility and thereby affects the rate at which gasoline evaporates and emits VOCs, an ozone forming pollutant. VOCs are an important component in the production of ground-level ozone in the hot summer months. RVP is directly proportional to the rate of evaporation. Consequently, the lower the RVP, the lower the rate of evaporation. Lowering the RVP in the summer months can offset the effect of summer temperature upon the volatility of gasoline, which, in turn, lowers emissions of VOCs. Reduction of the RVP will help the state's effort to maintain the NAAQS for ozone.

State Submittal

On May 17, 2001, MDNR requested that we revise the SIP to reflect its amendments to the State RVP controls. On June 13, 2001, Missouri submitted an addendum. Included in the submittal was a letter from Roger Randolph, Director, Air Pollution Control Program, MDNR, to William W. Rice, Acting EPA Region 7 Administrator, requesting a SIP revision, the regulation 10 CSR 10–2.330, and supporting documentation. The state held a public hearing on December 7, 2000; the rule was adopted on February 6, 2001, and the rule became effective on May 30, 2001.

Analysis of the SIP

As mentioned above, section 211(c)(4) of the CAA prohibits states from adopting or attempting to enforce controls or prohibitions respecting certain fuel characteristics or components unless the SIP for the State

so provides.[1] The CAA specifies that we may approve such state fuel controls into a SIP only upon a finding that the control is ''necessary'' to achieve a NAAQS as defined under section 211(c)(4)(C). Section 211(c)(4)(C) does not, however, address the ability of states to modify fuel control programs that have already been deemed necessary and approved into a SIP.

Here Missouri does not seek approval of a new control or prohibition respecting a fuel characteristic or component. Instead, Missouri seeks approval of a change to the approved RVP control to adjust the level of the standard. Given the original 1998 (final approval) determination that the State RVP control was necessary to respond to the violations of the NAAQS, the violation and the additional exceedances which occurred after the implementation of the 7.2 psi RVP control, and the fact that the necessary reductions called for in the State's maintenance plan have still not been achieved, we believe it is reasonable to approve the amendments to the RVP standard without a new demonstration of necessity under section 211(c)(4)(C).[2]

As explained above, when the area experienced violations of the NAAQS in 1995 and 1997, Missouri was required to implement contingency measures as necessary to assure the area's ozone levels continued to meet national standards. By an August 17, 1995, letter, EPA had affirmed that Missouri and Kansas could substitute other equivalent control measures for the contingency measures specified in the approved SIP provided the substitute measures would achieve substantially equivalent emission reductions and that the substitute measures were submitted as SIP revisions.

In 1997, the State adopted a low RVP fuel regulation which required fuel sold between June 1 and September 15 of each year to have an RVP level not higher than 7.2 psi. As part of the SIP submittal, Missouri demonstrated that additional control measures necessary to provide emissions reductions required to meet the contingency plan commitments were unreasonable or impracticable for implementation. EPA found the RVP control was therefore necessary under section 211(c)(4)(C) and approved the 7.2 psi RVP gasoline requirement into the SIP (62 FR 52659, October 9, 1997, and 63 FR 20318, April 4, 1998).

The control adopted into the SIP in 1998, however, was insufficient to meet the VOC reductions required by the contingency measures of the maintenance plan (See 64 FR 3901, January 26, 1999.) As a result, full approval of the SIP submittal addressing the 1995 and 1997 one-hour ozone violations was made contingent upon Missouri implementing one of the following in lieu of the contingency measures in the 1992 SIP which were not implemented: (1) Opting in to the Federal reformulated gasoline (RFG) program; (2) adopting an alternative state fuel regulation; or (3) adopting regulations implementing Stage II vapor recovery at retail gasoline stations (64 FR 28753, May 27, 1999).

In its current SIP submittal, Missouri quantifies the additional VOC reductions needed to make up the shortfall left from the 1997 SIP revision. Missouri estimates that the control measures approved into the SIP in 1998 provide approximately 4.0 of the 8.4 tpd of VOC reductions required. As a result the area needs to achieve approximately 4.4 tpd of additional VOC reductions to replace the reductions that were to be achieved by implementing the required contingency measures.

After unsuccessfully attempting to opt in to the Federal RFG program, the Governor of Missouri committed to implement a 7.0 psi RVP fuel program in Clay, Jackson, and Platte Counties with a target implementation date of the summer of 2001. Reducing the fuel volatility limit from 7.2 to 7.0 psi will reduce VOC emissions by another 2.43 tpd in the Kansas City area. Missouri and Kansas are working to establish control measures for stationary sources to provide the additional emissions reductions called for in the maintenance plan. Missouri submitted additional control measures on May 17 and July 19, 2001, for the control of petroleum liquid storage, loading and transfer and another for the control of emissions from solvent cleanup operations. We expect another control measure reducing the vapor pressure of cold cleaning solvents to be submitted by Missouri later this year. Kansas committed to implementation of a phased program to reduce the vapor pressure of cold cleaning solvents to less than or equal to 1.0 mmHg. We expect this SIP revision will be submitted early next year. EPA action on these submissions will be addressed in future rulemaking. This action proposes approval of the State's amendments to its RVP standards. We are approving these amendments without making a new determination of necessity under section 211(c)(4)(C) because the adjustment in the RVP level from 7.2 psi to 7.0 psi is a continuation of the previous requirement for the area to address the 1995 and 1997 air quality violations. The CAA requirements for approving a State fuel control into a SIP were met with our rulemaking in 1998 when it was demonstrated that a fuel control measure is necessary to achieve the NAAQS. The changes to the level of control do not represent new controls respecting fuel characteristics or components that are not already approved in a SIP.

It is important to note that Missouri could have adopted a 7.0 psi RVP control measure and received SIP approval for such a control in the 1998 SIP revision. While this measure provided some VOC reductions, it did not provide all of the reductions considered necessary to respond to the violations of the ozone NAAQS. The 7.2 psi RVP control was adopted in 1997 as an interim control measure that could be implemented quickly while the State contemplated other control measures to make up the further reductions required. This decision, however, was not compelled by the CAA and, in 1997, Missouri could have made the decision it is making now that the appropriate RVP level is 7.0 psi.

Analysis of the Rule

The Missouri rule specifies that no person shall sell, dispense, supply, offer for sale, offer for supply, transport or exchange in trade for use in Clay, Platte, and Jackson Counties that has an RVP greater than 7.0 psi, or 8.0 psi for gasoline containing at least 9.0 percent by volume but not more than 10.0 percent by volume ethanol. The rule is applicable from June 1 through September 15 of each year. The Kansas rule is similar.

Persons subject to this rule shall maintain records of any RVP testing and test results during the compliance period. These records shall be kept for two years after the date of a completed RVP test.

Each bill of lading, invoice, loading ticket, delivery ticket, and other document that accompanies a shipment of gasoline shall contain a legible and conspicuous statement that the RVP of the gasoline does not exceed 7.0 psi or that the RVP does not exceed 8.0 psi for 9 to 10 percent ethyl alcohol blends.

[1] Under sections 211(h) and 211(c)(1) of the CAA, we have promulgated nationally applicable Federal standards for the RVP level of summertime gasoline. Because a Federal control promulgated under section 211(c)(1) applies to the fuel characteristic RVP, nonidentical state controls on summertime RVP are prohibited under section 211(c)(4)(A).

[2] The documents submitted by the State (see 217/MO–188 in the docket) support a conclusion that the amendments to the RVP standard are necessary as defined under section 211(c)(4)(C). Because we conclude that such a demonstration is not necessary, we have not conducted our own analysis of the State's submittal.

Gasoline that exceeds the RVP limit will not violate this rule if the gasoline is separately stored, sealed, and clearly labeled and not used until it is in compliance with this rule is exempt from this regulation. The label shall state that the gasoline is prohibited from being sold, dispensed, supplied, offered for sale, offered for supply, transported or exchanged in trade until the specific date that the gasoline shall be in compliance with this rule.

An individual consumer of gasoline who dispenses gasoline into his/her personal motor vehicle is exempt from this rule.

Gasoline used only to fuel vehicles on property zoned for agriculture use is exempt from this rule.

Owners and operators of facilities that only dispense gasoline into individual motor vehicles are not required to conduct the RVP testing specified.

The sampling procedures and test methods are those outlined in 40 CFR part 80, appendices D and E. Additional testing is required whenever the RVP is between 7.0 and 7.3 psi for conventional gasoline or when the RVP is between 8.0 and 8.3 psi for 9 to 10 percent ethyl alcohol blends.

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 the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and part D of Title I and implementing regulations.

What Action Is EPA Taking?

We are proposing to approve this revision to the Missouri SIP concerning 10 CSR 10–2.330 as it meets the requirements of the CAA.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 (Public Law 104–4).

This proposed 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 proposes to approve 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 proposed 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 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 Clean Air Act. 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 proposed 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.*).

List of Subjects 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: November 5, 2001.

Martha R. Steincamp,

Acting Regional Administrator, Region 7.

[FR Doc. 01–28737 Filed 11–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7100–5]

Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Arizona; Arizona Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to section 112(l) of the 1990 Clean Air Act, EPA granted delegation of specific national emission standards for hazardous air pollutants (NESHAPs) to the Arizona Department of Environmental Quality on March 5, 2001. In the Rules section of this **Federal Register**, EPA is amending regulations to reflect the current delegation status of NESHAPs in Arizona. EPA is taking direct final action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Written comments must be received by December 17, 2001.

ADDRESSES: Written comments should be addressed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.