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[FR Doc. 02–7092 Filed 3–22–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 114–1114b; FRL–7162–9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving as an amendment to the Missouri State Implementation Plan (SIP) a revision to the Missouri construction permit rule. EPA is also responding to comments received during the public comment period. This revision will strengthen the SIP with respect to attainment and maintenance of established air quality standards, ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's air program rule revisions pursuant to section 110 of the Clean Air Act.

EFFECTIVE DATE: This rule is effective on April 24, 2002.

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 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 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 Being Addressed in This Document?

Background

On April 6, 2001, we published a proposal and a direct final **Federal Register** document to approve Missouri rule 10 CSR 10–6.060, Construction Permits Required, as a revision to the Missouri State Implementation Plan (SIP). Among other revisions, this submission established minimum emission cutoffs for the state's minor new source review (NSR) program. In general, Missouri did not previously have exemptions to its minor NSR program based on emission levels. The revisions, in relevant part, exempt sources with emission levels below 0.5 pounds per hour or 876 pounds per year of a regulated pollutant from the minor source permitting program. Because adverse comments were submitted on our approval of the rule, the direct final rule was withdrawn on June 1, 2001 (66 FR 29705).

Two comment letters were received—one from the Associated Industries of Missouri (AIM) and one from the Regulatory Environmental Group For Missouri (REGFORM). The REGFORM comments were received two days after the close of the comment period, but since its comments were similar to those submitted by AIM, they will also be addressed here.

Response to Comments

Comment 1: The AIM comment was general in nature and pertained to the portion of the rule relating to the emission levels below which permit review for new construction or modification is not required. AIM stated that this issue had been the subject of discussion of a work group involving industry, citizen groups and the Missouri Department of Natural Resources (MDNR), which led up to the revision of the rule, and the work group is again meeting and the ''insignificant levels'' issue is again being reviewed. Since the rule may be revised again, AIM believes it is inappropriate to incorporate the rule in the SIP at this time. The comments from REGFORM also concerned the ''insignificant levels.'' REGFORM commented that the aforementioned work group was again meeting and that we should not approve this revision, but instead wait until a new rule is promulgated after the work group has completed its deliberations.

Response to Comment 1: The CAA contains two limitations relating to EPA action on SIP submittals which are relevant to the comment. First, section 110(k)(2) provides, in part, that EPA must act on a SIP submission within 12 months after EPA determines that the SIP submission is ''complete.'' Second, section 110(k)(3) provides that we must approve a SIP revision which meets the requirements of the CAA.

Because of the 12-month deadline for EPA action, we would be unable to merely defer action on the submission until the work group reaches consensus on rule changes, and MDNR makes rule changes (MDNR rulemaking process generally takes about one year; MDNR has not begun that process yet and has made no decision to begin the rulemaking process), even if we had a justification for deferring action pending that process. We also note that deferring action would leave in place the current rule, which contains no exemptions based on emission levels, leaving sources subject to a more stringent rule than the revised rule which we are approving into the SIP.

Although the commenters did not suggest that EPA disapprove the rule, we note that disapproval would be the alternative available to EPA under section 110 (k)(2), and that the commenters have not provided any basis for EPA to disapprove the revision. The commenters state that it is inappropriate to approve the revision now, since it may be revised in the future. However, SIP revisions are always subject to future changes, and the CAA provides no basis for us to disapprove a rule merely because it might be changed later. For the reasons stated in the proposal and this final rule, we have determined that the SIP revision meets the requirements of the CAA, and we are approving it under section 110 (k)(3). If MDNR makes further revisions to the rule and submits the revisions to EPA, we will evaluate the revisions and determine whether to incorporate the revisions into the SIP through future rulemaking.

Comment 2: REGFORM also specifically expressed concern about the insignificant level of 0.5 pounds per hour, below which a source is not subject to the rule requirements. REGFORM asserts that establishing a threshold in pounds per hour considerably restricts permit applicants' ability to qualify for an exemption, even if the source is meeting the yearly limit.

Response to Comment 2: EPA recognizes that a per hour emission rate may be more restrictive than a daily or annual rate. However, there is nothing which restricts the state from setting an hourly limit. The state decided that the 0.5 hourly exemption level was appropriate and considered comments on the 0.5 hourly exemption during its public comment period. (The state's response to comments is contained in the July 29, 1999, Missouri Air Conservation Commission Briefing Document.) The state concluded that a short-term applicability limit was needed to ensure protection of short-term air quality standards. The commenter did not provide any information indicating that the state's choice of a short-term limit is inconsistent with the CAA. Therefore, EPA concludes that it cannot disapprove or defer action on this provision merely because it may be more restrictive than the annual applicability limits.

Summary: The comments submitted fail to provide sufficient technical or statutory reasons to not fully approve the revised rule in the Missouri SIP. We therefore are taking final action to approve this rule revision as an amendment to the Missouri SIP.

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 in the April 6, 2001, **Federal Register** notice and in more detail in the technical support document which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are taking final action to approve this rule as a revision to the Missouri SIP.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves 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 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 24, 2002. 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 14, 2002.

James B. Gulliford,

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 ''10–6.060'' 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				
*	*	*	*	*
10–6.060	Construction Permits Required.	11/30/99	03/25/02 and FR cite.	Section 9, pertaining to hazardous air pollutants, is not part of the SIP.
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[FR Doc. 02–7094 Filed 3–22–02; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–260; RM–5728]

Radio Broadcasting Services; Olive Branch, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of June 22, 1988, a document concerning updating the FM Table of Allotments for Section 73.202(b) under Mississippi. The spelling of the community was incorrect. This document corrects the spelling of the community.

DATES: Effective on March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: On June 22, 1988, the Commission published a document (53 FR 23369) amending § 73.202(b), the FM Table of Allotments, by adding Channel 239A at Olive Branch, Mississippi. The name of the community was listed in the FM Table of Allotments as ''Olive Brance'' in lieu of Olive Branch. This document corrects the spelling of the community.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 02–7019 Filed 3–22–02; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1480; MM Docket No. 00–158; RM–9337, RM–9892]

Radio Broadcasting Services; Alamo Community, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of September 15, 2000, 65 FR 55930, a document concerning updating Section 73.202(b), the FM Table of Allotments for Radio Broadcasting Services; Alamo Community, New Mexico of the Commission Rules. The docket number listed in the heading was published incorrectly. The correct docket number is set forth above.

DATES: Effective on March 25, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177.